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ABSTRACT

Reported is a study of child abuse legislation and state programs relating to principles of reporting abuse in the eight southeastern states in Region IV (Georgia, Alabama, Florida, North Carolina, South Carolina, Tennessee, Kentucky, and Mississippi). Chapter 1 introduces the report and includes research objectives, format, and methods of data collection. Legislation is covered in Chapter 2, which provides an outline of each State's legislation on child abuse in tabulated form. Chapter 3 focuses on the implementation of reports and covers topics such as mandated reporters, recipients of reports, how reports are made, and penalties for failure to report. Protective services are discussed in Chapter 4 which includes descriptions of programs, staff, and services. Chapter 5, on child abuse central registries, provides a table of information on the registries by State. Interrelationships between the public welfare agencies and medical constituents, the courts, and the community are discussed in Chapter 6. Chapter 7 focuses on defining and restraining elements of the reporting statutes and implementing reports under the law. (IM)

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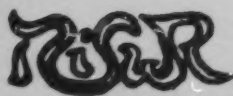
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Child Abuse: State Legislation and Programs in the Southeast

prepared by:

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Preface

Americans have become increasingly aware and concerned about the problem of child abuse. In response to this growing concern in the early 1960's, the Children's Bureau in 1963 published The Abused Child--Principles and Suggested Language for Legislation on Reporting of the Physically Abused Child as a basis on which states could model their reporting laws.

Since the passage of the first reporting laws which were based on the above model, many states have amended their laws while others have repealed them. While all of the modifications undoubtedly reflect the states' perceived needs as they move toward a more effective reporting law, some changes may work to the detriment of the intent of the law. There is a paucity of accumulated conceptual and empirical base for making changes. To date, the best guides tend to be reflected in the trends that are most commonly accepted. Little consideration has been given to the reflection of those who operate directly within the framework of the laws on the efficacy thereof.

In this context, we undertook a Regional study, employing constructed instruments and personal interviews to (1) determine what the states' legislations were; (2) compare the statutes with the model; (3) seek some conceptual order of the child protective service programs in the domain; and (4) utilize the findings from the study, in conjunction with existing knowledge, to present considerations for future modifications in child abuse statutes.

This monograph is a report of the first findings of the study of child abuse in the eight Southeastern States in Region IV. A subsequent report will focus on the incidence and nature of child abuse in the Region.

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State Personnel in the Region who were so cooperative and expedient in providing us with the requested information and who gave freely of their time for personal interviews;

Personnel in the Regional Office for their assistance in establishing a working relationship in the participating states and for their continued support.

Finally, thanks are due to Pat Abernathy and Judy Adams for their patience and efficiency in typing drafts and the final report.

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Chapter 1

INTRODUCTION

General Perspective

Historically, children have been bruised, beaten, maimed, intentionally neglected, and even killed by adults, and in most cases by their own parents or other family members. However, the universal maltreatment of children has not until recently stimulated a call for social action in defense of children. It has only been within recent years that society has defined child abuse as a social problem. The impetus for increased concern about physical child abuse emanated from the confirmation of physicians' suspicions about the unaccidental causes of many unexplained injuries and deaths in young children. X-ray observations in particular have moved physicians a long ways in identifying suspected abuse, especially if there are old fractures and/or fractures in different stages of healing.

It was in the early 1960's that the public was shocked by publicized accounts of physical abuse to children. In response to the social situation, the Children's Bureau in 1963 published The Abused Child--Principles and Suggested Language for Legislation on Reporting of the Physically Abused Child as a basis on which states could model their reporting laws.

By 1967 all of the states had passed child abuse legislation. There is considerable variation in the laws since each state employed the model to reflect its own needs. The first stab at reporting legislation understandably represented a legal mandate with many weaknesses. Consequently, many states have subsequently amended their laws while others have repealed

them. While all of the modifications undoubtedly reflect the perceived needs of states as they move toward a more effective reporting law, some changes, no doubt, will work to the detriment of the intent of the law. There is a paucity of accumulated conceptual and empirical knowledge relevant to the whole area of child abuse.

First and foremost, child abuse reporting laws are "casefinding devices." The laws stipulate what constitutes abuse and/or neglect--reportable age and definition of injuries. Beyond this, the laws set down certain elements which are basic to the process of implementing the laws, i.e., who reports and to whom, under what conditions reports are to be made, the nature of reports, and the mechanisms for responding to reports. In order that child abuse legislation stimulates social action beyond casefinding, it is essential that the law explicates how reporting is to be implemented. The process beginning with the identification of an applicable case through the disposition of said case must be clear.

But clarity of the process is not enough to ensure effectiveness in the statutes. The elements of the process must be logically related to every other element. One element must not negate the effectiveness of any other. For example, if the purpose of the law is to locate and provide protective services to children who come under the jurisdiction of the law, then any part of the law which dissipates this possibility is in apposition to the intent of the law. To further explicate this point, the following example is offered. If one vital source of reports--to the end of locating and protecting children--is the suspected perpetrator, and there is a stated penalty for abusing, the penalty element logically negates the effectiveness of the major legislative intent. Succinctly, what are the chances that

a perpetrator, knowing he will be criminally charged, will initiate a report which will result in his own indictment and probable confinement?

Another example of relatedness between parts has to do with the coordination between the mandated recipient(s) of reports and the mandated social investigators of the abuse incident. There are, indeed, positive arguments for having more than one agency to receive reports, e. g., law enforcement agencies, the court, and/or public welfare agencies. Yet, with the investigative powers usually being invested in one agency, i.e., public welfare, the time lapse between reporting and investigation can be a crucial factor in identifying and responding to children in need of protection. Thus, it appears that any advantages accrued to identifying more than one agency as the recipient of reports may be offset by probable loss of vital time between the report and the action.

The law as a casefinding device, as well as a successful tool of implementation, are contingent upon certain other features of the statutes, i.e., provisions and conditions of immunity, the abrogation of evidentiary privileges, and the penalty, if any, for abusing. These factors are undoubtedly significant in terms of the potential reporter's readiness or lack of it to respond to the call for action.

So much for this brief overview of the basic elements of child abuse laws. These elements will be discussed more in detail in subsequent sections of the report.

What happens to the child and his family once the case has been identified and the process of moving the case beyond casefinding, to the agency or agencies that have final disposition? What is the extent and expertise

of personnel in social services which are available? What community resources are available? To what extent do interagency understanding and cooperation reflect the realization of the intent of the child abuse statutes? Succinctly, how well are states prepared to follow through on identified cases of child abuse?

Once cases have been reported and investigated, and agencies' dispositions have been established and activities have been initiated, what record keeping mechanisms become operative? Many states have instituted the Central Registry, some through administrative policy of the public welfare agency and others through legislative acts.

The Central Registry is designed to house data on abused children--suspected and confirmed--which will assist in future references, and to serve as a source for instant data on abuse cases. In addition, the Registry serves as a data bank for needed research. How well do established Central Registries reflect these goals?

Research Objectives

The major general objectives of this study are: (1) to determine and evaluate child abuse legislation and reporting systems in the eight states in Region IV; (2) to determine and describe child protective services programs, and staff; and; (3) to determine and describe the extent and quality of special demonstration programs currently directed to the child abuse field. Two additional general objectives of the overall study which will be reported on subsequent to data analysis are: (1) to more clearly establish what constitutes child abuse in the Region, and (2) to determine the incidence of

reported abuse in the Region.

Specific Aims:

1. To determine the legislative base for child abuse programs in each of the eight states.
2. To determine how each state's statutes compare to model legislative standards as set forth in the following model:

Children's Bureau, U. S. Department of Health, Education and Welfare
The Abused Child - Principles and Suggested Language for Legislation
on Reporting of the Physically Abused Child (1965).
3. To determine the quality and content of each of the eight state's reporting system.
4. To determine how each state's reporting system compares with the above model reporting system.
5. To determine the extent and content of in-service training programs for child abuse caseworkers.
6. To ascertain a description of special programs in the Region in the field of child abuse.
7. To evaluate child protective service programs and staff in the Region.

Format of the Report

In this report the eight Southeastern States in Region IV are compared to each other, and where appropriate, to the guidelines advocated in Principles in respect to the major research focus.*

The report has been divided into the following areas: (1) defining

*Children's Bureau, The Abused Child--Principles and Suggested Language for Legislation on Reporting of the Physically Abused Child. Throughout the remainder of this report we will refer to this source as Principles or the model.

and restraining elements of the reporting statutes; (2) implementation of reports under the statutes; (3) staff, programs, and services; (4) the Central Registry; and (5) interrelationships of child protective service programs. Following a comparative discussion of each of the first four sections is a detailed summary in tabular form.

Data Collection

This report is based on an assessment of data from two major sources--two mailed out schedules and personal interviews. Schedule A focused on the provisions of child abuse legislation and reporting systems. Schedule B was geared to an assessment of the states' staff, programs, and service availability and content. The data from Schedule A were used in conjunction with a current copy of each state's child abuse laws. To supplement data incorporated in Schedule B, personal interviews with child protective services personnel were conducted in on-site visits to each state's department of public social services.*

*We did not visit South Carolina's state office. South Carolina is the only state in Region IV which does not house the central registry at the state level.

Chapter 2

CHILD ABUSE LEGISLATION IN REGION IV

Purpose Clause

Logically, the first major element housed within a specific law should be a declaration of state policy on the intent of the particular legislative act. The purpose clause which embodies such a declaration is valuable for two basic reasons. First, it places in perspective the legislature's expression of the ultimate goal it seeks to achieve by the law. Second, it serves as a point of reference for interpreting and/or resolving ambiguities created by other elements in the act.

Five of the eight states in the Region incorporated a purpose clause in their statutes.* While the language of intent varies by states, the goal of protection is very similar to the wording set forth in Principles (1963: 11), ". . .to provide for the protection of children who have had physical injury inflicted upon them. . ." While similar to each other and to Principles with respect to the explicit goal of providing children with protection, there is one main area in which state laws differ somewhat from each other as well as from Principles. In four states, protection is extended beyond that of protection against physical injury or injuries. Among some of the inclusions are neglect, malnutrition, sexual abuse, and mental health and well being. Thus, the intent explicated in the states' laws suggests need for a broad array of protective services. In this respect, these laws differ from the narrow definition of abuse set forth in Principles, i.e., physical injury or injuries.

*Three states--Florida, Georgia and Kentucky--included the purpose clause in their original statutes. North Carolina and Tennessee added the purpose clause in amendments.

Beyond the statement of major intent, the purpose clause explicates the community resources which are intended to operate in response to a report of child abuse under the law. The states employ the language of the model or substantially similar language "...causing the protective services of the State to be brought to bear in an effort to protect the health and welfare of these children and to prevent further abuses." (p. 11) Georgia, North Carolina and Tennessee include in their purpose clause the preservation of family life wherever possible.

How well the intended goal of these laws can be effectuated depends, in large part, on the procedural guides incorporated in the law. These mechanisms will be analyzed in a subsequent section.

Reportable Age

It is recommended in Principles that the upper age limit covered by states' child abuse laws be the maximum age of juvenile court jurisdiction in the states. This appears to be a logical recommendation in view of the fact that in circumstances of acute risk and hazard the powers of the court may have to be invoked on behalf of the abused child.

Table 2-1 shows the reportable age limits in the eight states before and after amendments to the laws were incorporated.

Before amending the laws, the upper age limit in all of the states within the Region, with the exception of Georgia, was close to the age limits of juvenile court jurisdiction in dependency and neglect cases. With amendments to the statutes, four of the states raised their age limit to more closely conform to the maximum age of juvenile court jurisdiction in their state. Four states did not change the upper age limit.

Table 2-1

Reportable Age Limits by States Before
and After Amendments to Their Laws

Age	Before	After
Under 12	Georgia	
Under 13		
Under 16	Alabama, Florida North Carolina, South Carolina, Tennessee	Alabama, North Carolina
Under 17		Florida, South Carolina
Under 18	Kentucky, Mississippi	Georgia, Kentucky, Mississippi, Tennessee

Nature and Cause of Abuse

According to the model, abuse is serious physical injury or injuries inflicted other than by accidental means. This definition conforms to the major focus for protection as set forth in its purpose clause. Two states in the Region adhere to physical injury in their definition of abuse. Georgia defines reportable abuse in the exact words as those suggested in Principles. Mississippi defines abuse in terms of "Battered

Child," which is one who has had serious physical injury or injuries inflicted upon him by other than accidental means as a result of abuse or neglect.

South Carolina refers simply to the reporting of a child who has been subjected to physical abuse or neglect. Alabama, Kentucky, and North Carolina include sexual abuse, malnutrition, or some variant of the concept, as well as inflicted physical injury or injuries. Alabama spells out the cause of injury as that which is "...caused by physical abuse, child brutality, child abuse, or neglect. ..."

Kentucky and North Carolina use the phrase. ... other than by accidental means.

While Tennessee does not explicitly include sexual abuse or malnutrition, these may be interpreted as being included in the wording "...any wound, injury disability, or physical or mental condition which is of such a nature as to reasonably indicate that it was caused by brutality, abuse or neglect. ...". Of the eight states in the Region, Florida has the broadest definition of abuse. In conjunction with the elements, with the exception of sexual abuse, included in the language of the other states' laws, Florida defines "abuse" or "maltreatment" as the "...failure to provide sustenance, clothing, shelter, or medical attention."

Thus, within the Region, we find a wide variation in the definitions of abuse--from strict terms of physical injury inflicted by other than accidental means to a broad definition which includes general health and welfare factors which may or may not result from intentional or willful omission.

The definition or nature of the injury and the cause reflect each

state's implied or stated purpose in its legislative act. Beyond this, there is one point that needs emphasizing when one compares the incidence of abuse by states. Barring the ramifications of reporting in general and the differences in reported incidents based on the lack of conceptual clarity and operational definitions of such terms as abuse, serious physical injury, neglect, etc., there will be further differences based on the inclusiveness of the definition. It is only logical to assume that states with the least number of reported cases of abuse would also be those in which abuse has been defined in strict physical terms. As additional elements are incorporated, i.e., as the definition becomes broader, the number of cases reported can be expected to increase accordingly.

Provisions and Conditions of Immunity

The mere existence of a reporting law legitimizes the act of reporting and subsequently frees individuals to a degree to report acts which heretofore have been considered the private domain of families, i.e., the treatment of children. But beyond the point of having the mind to report, potential reporters must have some assurance that they will be protected in their action, as well as from any legal repercussions emanating from their action. Thus any law which requires an action which could jeopardize citizens' general welfare and livelihood must, in order to ensure the desired participation, provide for protection under the law.

As suggested in Principles, immunity should be granted from any liability, civil or criminal, with respect to reporting and participating in judicial proceedings if such participation is in good faith. All of the states in Region IV have an immunity clause in their child abuse statutes. With

the exception of Tennessee (explicating immunity with respect to reporting only), the states guarantee immunity from civil and criminal liability with respect to reporting and judicial proceeding resulting from such report.

Seven of the states included a conditional phrase to their immunity clause. Georgia and South Carolina grant immunity if participation is "in good faith." The presumption of good faith is incorporated in the immunity clause of Mississippi and Tennessee. Florida uses the phrase ". . .resulting therefrom prima facie shall be presumed to be acting in good faith." In this phrase the presumption of good faith is open to rebuttal since presumption is contingent upon prima facie which means presumption or sufficient unless disproved. Whether the presumption of good faith phrase, as employed in the immunity clause of two of the states, is also subject to rebuttal is not clear. Kentucky's immunity is contingent upon action based on "reasonable cause" and North Carolina grants immunity ". . .unless such person acted with malice and without reasonable cause." Alabama's clause does not contain a conditional phrase.

There are at least two basic reasons why a conditional phrase is necessary to the immunity clause. Assuming that potential reporters are aware of the conditions placed on immunity, it is highly probable that reports, which are not made in the interest of the child's welfare but are actions intended to bring insult or harm to the parent(s) or caretakers, will be minimized. As a corollary to the first reason, time and manpower required to investigate such reports necessarily tax time and manpower required for the protection of children in need of the services.

Abrogation of Evidentiary Privileges

"Neither the physician-patient privilege nor the husband-wife privilege shall be ground for excluding evidence regarding a child's injuries or the cause thereof. . ." (Principles: 12) Two states in the Region, Kentucky and North Carolina, have basically followed this guide in setting forth evidence not privileged. Each of the other states with the exception of Georgia which establishes no waivers, deviates in phraseology and intent from the model.

Alabama's statute provides for no privileged communication, while Florida's law establishes the attorney-client relationship as grounds for privileged communication. South Carolina provides that the husband-wife relationship does not exempt the disclosure of evidence. On the other hand, privileged communication exists between physician and patient except in the evaluation process. Tennessee waives the husband-wife privilege; however, the law does not waive the general category of physician-patient privilege. The psychiatrist-patient and the psychologist-patient communication privileges are abrogated. It is unclear from the phrasing in Mississippi's law--physician-patient privilege or similar privilege or rule against disclosure--whether abrogation of evidentiary privilege refers to any source of evidence regarding a child's injuries or the cause thereof or whether reference is made to other possible relationships of a health or medical nature.

Penalty for Abusing

The primary function of the first legislation which considered the

need for protecting abused and neglected children, and of the agencies responding to the statutes was that of investigating cases and bringing the perpetrator(s) to justice for their crimes against children. This function left a great deal to be desired. The tendency toward terminating parental rights and/or imprisonment often resulted in institutional care or other placement for children and no rehabilitative help for the parents.

The transition from rescuing and prosecution to casework services was a slow one, mainly because the field of social work was slowly developing its own body of knowledge and the change in refocusing thinking about child protective work from punishment to a helping process was slow to come.

Many of the recent laws and current social agencies' functions reflect the change from a punitive to a therapeutic approach for dealing with child abusers. Such a change appears advisable in view of research into causes and consequences of child abuse. The change, however, indicates our usual tendency of swinging from one extreme on the pendulum to the other in dealing with social problems. It is usually beneficial to view an approach simply as one alternative among others to solving problems. There maybe many abusers of children who can be helped by casework and other social and psychiatric services.* On the other hand, it is possible that there are those who require punishment for their "crimes" against children. But in terms of child abuse laws, the existence of an unqualified penalty for abusing may very well negate the effectiveness of the purpose of the

*Dr. C. Henry Kempe of the University of Colorado Medical Center estimates that 90 percent of abusive parents can be helped to become adequate parents. The National Observer (March 24, 1973).

statute.

There is no penalty clause in Principles. Four states in Region IV-- Florida, Georgia, Kentucky, and South Carolina--do not have a penalty clause in their statutes, while the other four states incorporated the clause stipulating punishment of varying degrees. Alabama amended its law to include a punishment of not less than one year nor more than ten for conviction. Child abuse in Mississippi is a felony that upon conviction carries a punishment by imprisonment in the penitentiary for not more than twenty years.* Prior to this change, Mississippi's law leaned toward treatment and/or corrective measures at the discretion of the court. North Carolina does not explicate punishment; child abuse is simply deemed a misdemeanor. Child abuse in Tennessee is a misdemeanor and is punishable by not more than one-thousand dollars or imprisonment for not more than eleven months and twenty-nine days or both.

*While the law establishes under eighteen (18) as the reportable age limit, it defines abuse as a crime of felonious battery only if the abused child is under thirteen (13).

Table 2-2

STATES CHILD ABUSE LEGISLATION

STATE	AMENDMENTS	STATEMENT OF PURPOSE	REPORTABLE AGE	NATURE OF INJURY/CAUSE	PROVISIONS AND CONDITIONS OF IMMUNITY	ABROGATION OF EVIDENTIARY PRIVILEGES	PENALTY FOR ABUSING
Alabama Act No. 931, Act of 1969, Regular Session	Act No. 2422, Regular Session, 1971...To provide for the conviction of persons... and to provide the punishment of such crime.	None	Under 16	"...appears to be suffering from starvation or from sexual abuse or attempted abuse or is suffering from or has sustained any wound or injury which would or injury appears to be unusual or of such a nature so as to indicate or raise a suspicion, that such would or injury was caused by physical abuse, child brutality, child abuse, or neglect..."	From liability, civil or criminal with respect to making reports and for participation in judicial proceedings.	"The doctrine of privileged communication shall not be a ground for excluding any evidence regarding a child's injuries or the cause thereof, in any judicial proceeding resulting from a report..."	"Any person over 18...on conviction be punished by imprisonment in the penitentiary for not less than one year nor more than ten years."

Table 2-2--Continued

STATE	AMENDMENTS	STATEMENT OF PURPOSE	REPORTABLE AGE	NATURE OF INJURY/CAUSE	PROVISIONS AND CONDITIONS OF IMMUNITY	ABROGATION OF EVIDENTIARY PRIVILEGES	PENALTY FOR ABUSING
Florida Section 828.041 (1963)	Chapter 71-97 (July, 1971) changed definition of child. Those mandated to report were expanded; kinds of incidents to be reported expanded; reports to be made to Department of Health and Rehabilitative Services rather than Juvenile Judge; establishment of Central Registry; the doctrine of privileged communication expanded.	"The purpose of this act is to provide for the detection and correction of the abuse or maltreatment of children who are unable to protect themselves. Such abuse or maltreatment includes neglect, malnutrition, the infliction of severe physical injury other than by accidental means, and failure to provide necessary treatment, attention, sustenance, clothing, shelter, or medical services."	Under 17	"Abuse" or "maltreatment" includes neglect, malnutrition, severe physical injury inflicted other than by accidental means, and failure to provide sustenance, clothing, shelter, or medical attention."	From any liability civil or criminal, with respect to participating in the making of a report or participating in judicial proceeding... prima facie shall be presumed to be acting in good faith...	"The physician-patient privilege, husband-wife privilege, or any privilege except the attorney-client privilege... shall not pertain in any civil or criminal litigation in which a child's neglect, dependency, abuse or abandonment is in issue nor in any judicial proceedings resulting from a report..."	

Table 2-2--Continued

STATE	AMENDMENTS	STATEMENT OF PURPOSE	REPORTABLE AGE	NATURE OF INJURY/CAUSE	PROVISIONS AND CONDITIONS OF IMMUNITY	ABROGATION OF EVIDENTIARY PRIVILEGES	PENALTY FOR ABUSING
Georgia Ga. Code Ann. Sec. 74-111 (1965)	1973 - Raised reportable age; those mandated to report were expended.	"The purpose of this section is to provide for protection of children whose health and welfare are adversely affected and further threatened by the conduct of those responsible for their care as a protection... It is intended that the mandatory reporting of such cases... to appropriate police authority will cause the protective services of the state to be brought to bear on the situation in an effort to prevent further abuses, protect and enhance the welfare of these children, and preserve family life wherever possible."	Through 17	"...physical injury or injuries ...other than by accidental means..."	From any liability, civil or criminal, with respect to participating in making or causing report to be made or participating in any judicial proceeding...providing such participation shall be made in good faith.	None	

Table 2-2--Continued

STATE	AMENDMENTS	STATEMENT OF PURPOSE	REPORTABLE AGE	NATURE OF INJURY/CAUSE	PROVISIONS AND CONDITIONS OF IMMUNITY	ABROGATION OF EVIDENTIARY PRIVILEGES	PENALTY FOR ABUSING
Kentucky KRS 199.335 (1964)	1970-Severe malnutrition as abuse 1972-Added sexual abuse and gross neglect; gave hospital and physician office authority to hold a child up to 24 hours if release would place him in danger; changed persons to whom reports are to be made from police authorities to public welfare agency. Clarified persons who must report suspected abuse; provided that proof of abuse is a grounds for removal of child without having to prove who perpetrated abuse.	"...to provide for the protection of children who have had physical injury inflicted upon them and who are further threatened by conduct of those responsible for their care and protection, or who are suffering from severe malnutrition, sexual abuse, or severe neglect... causing the protective services of the state to be brought to bear in an effort to protect the health and welfare of these children and to prevent further abuses and neglect."	Under 18	Serious physical injury or injuries inflicted other than by accidental means, includes endangerment to health from malnutrition, sexual abuse, or gross neglect.	From any liability, civil or criminal, with respect to the making of reports and for participation in judicial proceedings...acting upon reasonable cause.	"Neither the physician-patient nor the husband-wife privilege shall be a ground for excluding evidence regarding a child's injuries, malnutrition, sexual abuse or neglect or the cause thereof..."	

Table 2-2---Continued

STATE	AMENDMENTS	STATEMENT OF PURPOSE	REPORTABLE AGE	NATURE OF INJURY/CAUSE	PROVISIONS AND CONDITIONS OF IMMUNITY	ABROGATION OF EVIDENTIARY PRIVILEGES	PENALTY FOR ABUSING
Mississippi 1973	An act to amend Sections 7185-05, 7185-08 and 7185-13, Mississippi Code of 1942, Sec. 7185-01 to 7185-16	None	Under 18	Serious physical injury or injuries inflicted other than accidental means as a result of abuse or neglect ("Battered Child")	From any liability, civil or criminal with respect to reporting and participation in judicial proceedings... presumption of acting in good faith.	"In any proceeding resulting from a report...the testimony of the physician making the said report shall not be excluded on the ground that such physician's testimony violates the physician-patient privilege or similar privilege or rule against disclosure."	Felony. "...upon conviction may be punished by imprisonment in the penitentiary for not more than twenty (20) years."

Table 2-2--Continued

STATE	AMENDMENTS	STATEMENT OF PURPOSE	REPORTABLE AGE	NATURE OF INJURY/CAUSE	PROVISIONS AND CONDITIONS OF IMMUNITY	ABROGATION OF EVIDENTIARY PRIVILEGES	PENALTY FOR ABUSING
North Carolina N.C. Gen. Stat. Sec. 8-53.1 14-318.2, 14-318.3 (1965)	1971--(Chapter 710-HB548) Reporting mandatory; husband-wife privileges waived; provided for medical facility or physician to retain temporary custody of a child if releasing would be dangerous to the child; added purpose clause, and made child abuse a general misdemeanor.	"...To identify any children suspected to be neglected or abused and to assure that protective services will be made available to such children and their families... that future abuse or neglect will be prevented, and to preserve family life of the parties involved where possible by enhancing parental capacity for good child care."	Under 16	The risk of or actual physical injury inflicted other than by accidental means, sexual abuse, or neglect.	From any civil or criminal liability, with respect to reporting and participating in judicial proceedings... "unless such person acted with malice and without reasonable cause."	"Neither the physician-patient privilege nor the husband-wife privilege shall be ground for excluding evidence of child abuse or neglect in any judicial proceeding (civil, criminal, or juvenile) in which a child's abuse or neglect is in issue, nor in any judicial proceeding resulting from a report..."	General misdemeanor
South Carolina Act No. 1068 (1972) to repeal Act No. 81 of 1965.		None	Under 17	"...having reasonable cause to believe that a child has been subjected to physical abuse or neglect..."	From liability both civil and criminal with respect to reporting or participating in judicial proceedings... if in good faith.	"...There shall be no privileged communication between husband and wife, and in the evaluation process there shall be no privileged communication between doctor and patient."	

Table 2-2--Continued

STATE	AMENDMENTS	STATEMENT OF PURPOSE	REPORTABLE AGE	NATURE OF INJURY/CAUSE	PROVISIONS AND CONDITIONS OF IMMUNITY	ABROGATION OF EVIDENTIARY PRIVILEGES	PENALTY FOR ABUSING
Tennessee Tenn. Code Annotated Sect. 37-1201 to 37-1207 (1965) re- pealed by Senate Bill No. 160 Pub- lic Chapt. No. 81 (1973)	Senate Bill No. 160 (1973) "An act to provide mandatory child abuse reports; to pro- vide for the protec- tion of children who are victims of bru- tality, abuse or neg- lect; to establish procedures for the investigation and reporting of child abuse; to establish a central registry and controlled ac- cess to its records; to provide for enforce- ments and penalties; to repeal Tenn. Code Annotated, Sections 37-1201 through 37-1207, relative to child abuse; and to amend Tenn. Code Annotated, Section 37-202, relative to dependent and neg- lected children; Section 37-248, rel- ative to appointment of guardian ad litem, Section 36-601, re- lative to reports of certain types of in- juries, and Chapter 10 of Title 39, re- lative to injury & neglect of a child."	"The purpose of this Chapter is to protect children whose physical or mental health and welfare are adver- sely affected by brutality, abuse or neglect.... It is intended that the protective services of the State shall be brought to bear on the situation to prevent further abuses to safe- guard and enhance the welfare of children, and to preserve family life..."	Under 18	"...any wound, injury disability, or physi- cal or mental con- dition which is of such a nature as to reasonably indicate that it has been caused by brutality, abuse or neglect or which...reasonably appears to have been caused by brutality, abuse or neglect..."	From any liability, civil or criminal, with respect to re- porting (no explicit statement of immu- nity with respect to judicial proceed- ings)...presumption of acting in good faith.	"Neither the husband-wife privilege... nor the psychia- trist-patient privilege... nor the psycho- logist-patient privilege...is a ground for excluding evi- dences regarding harm or the cause of harm to a child..."	Misdemeanor; upon convic- tion not more than one thousand dollars or im- prisonment for not more than eleven months and 29 days or both.

Table 2-2--Continued

STATE	AMENDMENTS	STATEMENT OF PURPOSE	REPORTABLE AGE	NATURE OF INJURY/CAUSE	PROVISIONS AND CONDITIONS OF IMMUNITY	ABROGATION OF EVIDENTIARY PRIVILEGES	PENALTY FOR ABUSING
MODEL: Principles and Suggested Language		"To provide for the protection of children... causing the protective services of the State to be brought to bear in an effort to protect the health and welfare of these children and to prevent further abuses."	Recommends maximum age of juvenile court jurisdiction in the State be used.	Serious physical injury or injuries inflicted other than by accidental means.	From any liability, civil or criminal, with respect to reporting and participation in judicial proceedings ...participation in good faith.	Physician-patient Husband-wife	None

Chapter 3

IMPLEMENTING REPORTS UNDER THE LAW

This chapter deals with the legislative directions described in the laws for achieving the desired goals of the child abuse statutes. The features of the law basic to this discussion are who reports and under what conditions; to whom and how reports are made; type report; mandated actions following a reported incident; and penalty for failure to report.

Mandated Reporters and Conditions Initiating Reports

One of the most important elements of the reporting laws is the designated person(s) required to report and the prescriptions clarifying the conditions under which reports are to be made. According to the model (p. 11) "Any physician. . .having reasonable cause to suspect. . ." This statement includes both the mandated reporters and the conditions causing a report to be made. For purposes of clarity in presentation, the reporters will be discussed first.

While physicians are the logical group to report cases of child abuse since they are most likely to treat children, especially those seriously injured, and they are perhaps better equipped to make a distinction between accidental and nonaccidental injuries, there are strong and valid arguments for extending the mandate in the reporting laws to include other professional groups and possibly any person. There can be no argument that caseworkers are often faced with neglected and abused children, among their active caseloads, which would otherwise go unnoticed, unreported, and possibly untreated. The same is probably true for teachers and other school personnel. The major argument offered for including any person among the

mandated reporters is that often children seriously abused (not on welfare for the sake of explicating the example) are not medically attended. Through fear of repercussion, of religious proscription, or otherwise, the parents or other responsible adult fail to obtain needed medical treatment. In such cases, family members and/or neighbors are often aware of the extent of the injury and/or the nature of the circumstances of the incident which warrant social investigation.

Extending the target reporting group to include any person will undoubtedly increase the number of reports which are not of an abuse nature. On the other hand, this prescription would provide for the inclusion of more cases of abuse. Broadening detection in this manner would seem preferable despite the risks.

Mississippi is the single state in Region IV which has followed the model in limiting designated reporters to members of the medical professions. Five states--Alabama, Florida, Georgia, Kentucky, and South Carolina---designated physicians in conjunction with other professions as the target groups for reporting. North Carolina's law designates any professional person and any person. The reason for this distinction will be presented in the following discussion on conditions initiating reporting. Tennessee indicates simply that any person is required to report.

Under what conditions are mandated reporters required to report? None of the states in Region IV employ the language of Principles: ". . .reasonable cause to suspect. . ." If we can construe suspect to connote a belief which hinges on the probability that something is true and belief to mean a conviction that something is in fact true, then the phrasing of Alabama's law ". . .appears to be suffering. . ." is most comparable to the model. Appears, it can be surmised, has essentially the same

meaning as suspect.

The phrasing in the model, as in Alabama's statute, stipulates a minimum of knowledge as a basis for reporting. Florida's and Georgia's laws follow in degree of restriction required before reporting becomes mandatory; the reporter must have reason to believe or cause to believe, respectively. South Carolina employs essentially the same phrasing, qualified by reasonable cause. North Carolina distinguishes between the necessary condition for reporting, on the basis of the reporter. The law requires that professional persons have reasonable cause and any other person reporting must have knowledge. In Tennessee's law, the reporter must have knowledge of or have been approached to render aid.

Recipients of Child Abuse Reports

To whom are mandated reporters required to file reports? Perhaps the most practical channel would be exemplified in situations where the law mandates one particular agency, except in situations where said agency does not exist, to receive reports. This position is based on the point to which I alluded earlier; where there are several agencies mandated to receive reports, with one agency usually having investigative powers, the investigating process would conceivably be slowed down considerably. In addition, it would seem that potential reporters would have a better sense of direction or structure in situations where one specific agency has been designated to receive reports. In terms of the specific agency to which reports are to be made, it seem logical to assume that the state's department of social services, which presumably has the expertise to carry out social investigations and to render protective services, would be the designated agency.

Three states in Region IV--Florida, Kentucky, and North Carolina--designated the department of public welfare as the single agency for receiving reports of child abuse. In this prescription, these states deviated from the model which suggested that reports be made to appropriate police authority. Georgia designates either the child welfare agency or an appropriate police authority in the absence of a child welfare agency. South Carolina gives the reporter a choice between the department of public welfare, the sheriff's office, or the chief county law enforcement officer. According to Alabama's law, a written report is to be made to the chief of police, or to the sheriff or to the department of pensions and security. The law does not state to whom the initial telephoned report is to be made. By Mississippi's law, reports are to be made to a person designated by the judge of the county juvenile court or family court and to the public welfare department. Reports in Tennessee are to be made to the juvenile court judge or the department of public welfare or to the sheriff or the chief law enforcement official.

Type Report

All of the states in Region IV followed the model in making reporting mandatory rather than permissive, essentially employing the same language ". . .shall report or cause reports to be made. . ."

The type report suggested in Principles, is accusatory in nature; the person making the report is placed in the position of having to determine the perpetrator of the suspected abuse. In the language of the model, "Any physician. . .having reasonable cause to suspect. . .has had serious physical injury or injuries inflicted. . .by a parent or other person responsible for his care, shall report or cause reports to be made. . ."

The requirement of having to point an accusing finger places a moral burden on the reporter, as well as sets limitations on the efficacy of reporting.

Six of the eight states--Alabama, Florida, Kentucky, North and South Carolina, and Tennessee--establish that the language of the report be non-accusatory. Georgia and Mississippi employ accusatory language. In Georgia's law, the language is similar to that of the model ". . .injury or injuries inflicted. . .by a parent or caretaker. . ." Mississippi's law refers to the "Battered Child" which is one who has had serious physical injury or injuries inflicted upon him by a "parent, guardian or custodian, or any person legally responsible for his care or support." Mississippi and three of the six states indicating a non-accusatory report--Alabama, North Carolina, and Tennessee--carry a criminal charge for the conviction of child abuse. Tennessee's law provides for a misdemeanor under the State's criminal law.

How Reports Are Made

This area of the reporting law is very important to the success of the intent of the statute. Certainly, if there are ambiguities in this initial step, the purpose of locating and protecting children will not be fully realized.

The procedure for making reports should be a simple one, as well as well known to potential reporters. According to the suggested language of Principles, the report should be made orally by telephone or otherwise and followed as soon thereafter as possible by a written report. In view of the fact that the model mandates only physicians to report, this procedure may be appropriate. On the other hand, where the mandate to report is applicable to anyone having reason to believe or suspect or to have

knowledge of abuse, the requirement places an unwarranted burden on the reporter. In addition, many reporters may not be able to fulfill this requirement.

Six of the states in Region IV have followed the suggestion of the model in prescribing that an oral report, by telephone or otherwise, be followed by a written report. In the states where any person is mandated to report, the laws do not indicate whether the followup written report is a requirement only professional reporters have to meet or the requirement applies to all reporters. In practice, however, most states do not require the non-professional to submit a written report. In Tennessee the report can be made by telephone or otherwise. Reports in North Carolina may be oral or by telephone or written.

For clarity and uniformity in procedure, when a written report is to follow the oral, the prescription in the law should clarify whether or not all reporters are required to follow this procedure. And if not, the law should designate the category(s) of reporters that are required to follow a given course of action. The prescription of "telephone or otherwise", without otherwise being specified or relating to oral, gives insufficient structure to the procedure resulting possibly in a lack of uniformity in reporting.

Legislative Directions

The degree to which the purpose of the reporting law is realized depends, in large measure, upon the actions that are taken subsequent to a report. As we mentioned earlier, the process would appear to be most effective when the receiving agency is also the investigating agency.

There are no guides for legislative directions in the model. Georgia

is the single state in Region IV which has implied directions. In the directions included in the other state laws there are differences based on who is to investigate and in the degree of authority toward the end of providing protective services to abused children, invested in the investigating agency. Investigative powers are invested in the public welfare agency in six of the seven states incorporating explicit legislative directions. South Carolina also empowers the sheriff's office or chief county law enforcement officer to investigate.

Under Mississippi's law, the youth court may, in its discretion, make a preliminary inquiry to determine whether further action is required. During the pendency of such inquiry, the judge may request the county department of public welfare or any successor agency or any suitable public employee to make a social investigation.

The department of public welfare in North Carolina and the department of child welfare in Kentucky are mandated to take the necessary action toward the end of providing protective services without intermediary approval. There are, of course, court approvals required for given agency dispositions and/or activities, e.g., placement. The phrasing in Alabama's law include the investigative and action functions under the rubric of responsibility ". . .When a report is made. . .[it] shall inform the Department of Pensions and Security. . .so the department can carry out its responsibility to provide protective services. . ."

Under the statutes of Florida, Mississippi, and Tennessee the department of public welfare is mandated to present its findings to the juvenile court judge. Presumably, this step is taken prior to agency action. According to South Carolina's law, the investigative agencies are required

to prepare a written report. But it is only for situations in which the agency feels the child may be in danger, that directions are explicitly stated ". . .the sheriff or chief county law enforcement officer, with reasonable cause to believe that the child is in danger if left with the parents, shall immediately petition the court for a temporary order assuring proper care and treatment of the child. . ."

Penalty for Failure to Report

"Anyone knowingly and willfully violating the provisions of this Act shall be guilty of a misdemeanor." This is the penalty clause set forth in Principles. The purpose of including such a clause is to provide a device for the enforcement of the law. However, given the problems inherent in defining what constitutes abuse and determining the accidental-nonaccidental status of an incident, as well as establishing existence of knowledge and willful negligence to report, gaining a conviction for the failure to report would be a difficult task. Thus some would contend that the penalty for failing to report may be an ineffective device for its intent. On the other hand, the clause and probability of conviction might serve to stimulate reporting.*

Georgia, Mississippi, North Carolina do not have a penalty for failure to report included in their laws. In Alabama, the penalty for knowingly failing to report is a sentence of not more than six months or a fine of not more than five hundred dollars. Kentucky imposes a fine of not less

*This provision in California's law has been court tested. It has been reported that the State of California has been recently awarded a judgment of \$600,000 against four physicians who failed to report the abuse of a young child who subsequently suffered permanent head injuries resulting from repeated abuse. See Howard D. Criswell, Jr. "Why Do They Beat Their Children?" Human Needs (August, 1973).

than ten nor more than one hundred dollars for knowingly and willfully violating the act. South Carolina sets the same sentence and fine as Alabama with the stipulation that both sentence and fine may be imposed. Knowing and willful violation of Florida's law is a misdemeanor of the second degree. For knowingly failing to make a report under Tennessee's law there is a fine of not more than fifty dollars or a sentence of not more than three months, or both.

Religious Provisions in the Reporting Laws

All of the states' statutes in Region IV define reportable abuse/neglect in terms of age of child, intent of perpetrator, and nature of injury or injuries. Beyond these defining bases for reportable abuse and/or neglect, two states--Alabama and Mississippi--include spiritual healing as a basis for exclusion from reporting.

This provision as stated in the Alabama statute establishes that reporting is mandatory when a child ". . . appears to be suffering from starvation or from sexual abuse or attempted abuse or is suffering from or has sustained any wounds or injury or injury appears to be unusual or of such nature so as to indicate or raise a suspicion. . . provided, however, that a child who is being furnished Christian Science treatment by a duly accredited Christian Science Practitioner shall not be considered a physically neglected child for the purposes of this section."*

Under the Mississippi statute, the exclusion provision which is incorporated in the section on the "Neglected Child" states that: "No child

*Emphasis added.

who in good faith under treatment by spiritual means alone through prayer in accordance with the tenets and practice of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for this reason alone, be considered to be medically neglected under any provision of this act."*

There can be little doubt that this provision in the statute precludes protection to certain children. Parental right to refuse to permit medical treatment on religious grounds has at least two major consequences: (1) the medical attention which could possibly mean the difference between life and death for a child may not be provided, and (2) the identification of possible cases of abuse and subsequent preventive intervention are prevented.

It is the former consequence that is most disturbing. If the state's law incorporates a religious exclusion provision, there are legal restrictions to invoking the powers of the court in situations where a child's life may be in danger. On the other hand, if the law does not include such a provision, the powers of the court can be invoked on behalf of the child.

*Emphasis added.

Table 3-1
IMPLEMENTING REPORTS UNDER THE LAW

STATE	CONDITIONS INITIATING REPORT	TYPE REPORT	REPORT: HOW MADE	WHO REPORTS	TO WHOM REPORTED	LEGISLATIVE DIRECTIONS	PENALTY FOR FAILURE TO REPORT
Alabama	When child "...appears to be suffering from starvation or from sexual abuse or attempted abuse or is suffering from or has sustained any wounds or injury or injury appears to be unusual or of such nature so as to indicate or raise a suspicion...provided however, that a child who is being furnished Christian Science treatment by a duly accredited Christian Science Practitioner shall not be considered a physically neglected child..."	Non-Accusatory Mandatory... shall be required to report...	By telephone immediately followed by a written report.	"All hospitals, clinics, sanitariums, doctors, physicians, surgeons, nurses, school teachers, pharmacists, social workers, or any other person called upon to render aid or medical assistance..."	Does not indicate to whom the telephone report is made. Written to chief of police, or to sheriff, or to the department of pensions and security.	"When a report is made to a law enforcement official such official subsequently shall inform the Department of Pensions and Security ...so the department can carry out its responsibility to provide protective services..."	Knowingly fail to report...a sentence of not more than six (6) months or a fine of not more than \$500.00.

Table 3-1--Continued

STATE	CONDITIONS INITIATING REPORT	TYPE REPORT	REPORT: HOW MADE	WHO REPORTS	TO WHOM REPORTED	LEGISLATIVE DIRECTIONS	PENALTY FOR FAILURE TO REPORT
Florida	"...reason to believe that a child has been subject to abuse..." "In consideration of physical injury, the following items shall be considered evidence of maltreatment before the report is required: (a) Characteristic distribution of fractures; (b) Disproportionate amount of soft tissue injury; (c) Evidence that injuries occurred at different times or are in different stages of resolution; (d) Cause of recent trauma in question; (e) Family history; (f) History of previous episodes; and (g) No new lesions occurring during the child's hospitalization or removal from custody of a parent or care-taker.	Non-accusatory Mandatory... shall report or cause reports to be made...	Oral immediately by telephone or otherwise... followed as soon thereafter as possible by a report in writing.	"Any physician, nurse, teacher, social worker, or employee of a public or private facility serving children..."	Department of Health and Rehabilitative Services	"...The Department shall cause an immediate investigation to be made and shall in turn notify the juvenile court in the appropriate county. The Department shall secure the assistance of other agencies, if appropriate, including the juvenile court..."	Knowing and willful violating the Act... misdemeanor of the second degree.

Table 3-1--Continued

STATE	CONDITIONS INITIATING REPORT	TYPE REPORT	REPORT: HOW MADE	WHO REPORTS	TO WHOM REPORTED	LEGISLATIVE DIRECTIONS	PENALTY FOR FAILURE TO REPORT
Georgia	"...having cause to believe..."	Accusatory "...injury or injuries inflicted...by a parent or caretaker..." Mandatory... "shall report or cause reports to be made..."	Oral immediately by telephone or otherwise... followed by a written report.	"Any physician ...licensed osteopathic physician, intern, resident public health nurse or welfare worker..." Teachers and school administrators and other persons involved in the health, education and welfare of children.	Child welfare agency or to appropriate police authority in the absence of a child welfare agency.	Legislative directions are implied.	None
Kentucky	"...having reasonable cause to suspect..."	Non-accusatory Mandatory "...shall report or cause reports to be made..."	Oral immediately by telephone or otherwise ...followed as soon thereafter as possible in writing.	"Any physician, osteopathic physician, nurse, teacher, school administrator, social workers, medical examiners,** or other person.	Department of Child Welfare	The Department of Child Welfare shall investigate and take appropriate action to protect the child.	Knowing and willful violating...fine not less than ten nor more than one hundred dollars.

** Law stipulates that death of child does not relieve responsibility for reporting circumstances surrounding death.

Table 3-1--Continued

STATE	CONDITIONS INITIATING REPORT	TYPE REPORT	REPORT: HOW MADE	WHO REPORTS	TO WHOM REPORTED	LEGISLATIVE DIRECTIONS	PENALTY FOR FAILURE TO REPORT
Missis- sippi	...having reasonable cause to suspect... "No child who in good faith is under treatment by spi- ritual means alone through prayer in accor- dance with the tenets and prac- tice of a recog- nized church or religious deno- mination by a duly accredited prac- titioner thereof shall, for this reason alone, be considered to be medically neg- lected under any provision of this act."	Accusatory "Battered Child." Serious phy- sical injury or injuries inflicted by parent, guar- dian or cus- todian, or any person le- gally responsi- ble for child's care or sup- port. Mandatory "... shall cause an oral report to be made..."	Oral immediately telephone or otherwise...fol- lowed as soon thereafter as possible in writing.	"Any licensed doctor of medi- cine, licensed doctor of den- tistry intern, resident, or registered nurse."	"...person de- signated by the judge of the county youth court or family court and to the county welfare department..."	Youth court may make pre- liminary inquiry to deter- mine whether the interest of the child or the public requires the court to take further action. During the pendency of such inquiry, the judge may request the county department of public welfare or any youth coun- selor to make a social in- vestigation concerning the child and present the findings thereof to the court.	None

Table 3-1--Continued

STATE	CONDITIONS INITIATING REPORT	TYPE REPORT	REPORT: HOW MADE	WHO REPORTS	TO WHOM REPORTED	LEGISLATIVE DIRECTIONS	PENALTY FOR FAILURE TO REPORT
North Carolina	"Any professional person who has reasonable cause to suspect or any other person having knowledge that any child is an abused child..."	Non-accusatory Mandatory... shall report...	Oral or telephone or written.	Any professional person; any person.	County director of social services.	The county director of public welfare shall investigate...and shall take such action as is necessary to protect child and prevent further abuse.	None
South Carolina	"...having reasonable cause to believe that a child...has been subjected to physical abuse or neglect..."	Non-accusatory Mandatory... shall report or cause a report to be made...	Oral immediately by telephone or otherwise. A written report prepared after the social investigation.	"All practitioners of the healing arts and any other person having reasonable cause to believe..."	County department of public welfare or the county sheriff's office, or chief county law enforcement officer.	"Within three days following such oral report, an investigation shall be made by the county welfare department or sheriff's office or chief county law enforcement officer and a written report prepared...the sheriff or chief county law enforcement officer, with reasonable cause to believe that the child is in danger if left with the parents, shall immediately petition the court for a temporary order assuring proper care and treatment of the child..."	Misdemeanor not more than \$500. or not more than six months, or both.

Table 3-1--Continued

STATE	CONDITIONS INITIATING REPORT	TYPE REPORT	REPORT: HOW MADE	WHO REPORTS	TO WHOM REPORTED	LEGISLATIVE DIRECTIONS	PENALTY FOR FAILURE TO REPORT
Tennessee	Any person having knowledge of or called upon to render aid...	Accusatory Misdeemeanor under State's criminal laws. Mandatory ...shall report.	Immediately by telephone or otherwise.	Any person	Juvenile court judge or to the county office of the Department of Public Welfare or to the office of the sheriff or the chief law enforcement official of the municipality where the child resides.	The local director of the department of public welfare shall make an investigation and report its findings to the juvenile court judge without delay.	Misdeemeanor; knowingly fails to make a report, not more than fifty dollars or not more than three (3) months, or both fine and imprisonment.
MODEL Principles and suggested language	...reasonable cause to suspect.	Accusatory: injury or injuries inflicted by a parent or other person responsible for a child's care. Mandatory: ...shall report or cause reports to be made.	Oral report by telephone or other wise and followed as soon thereafter as possible by a written report.	Any physician, including any licensed doctor of medicine licensed osteopathic physician, intern and resident.	Appropriate police authority.		Misdeemeanor; knowing and willful violation.

Chapter 4

PROTECTIVE SERVICES: PROGRAMS, STAFF SERVICES

The Focus of Protective Services

State's protective services are initiated in response to some reported and/or observed effect--from omission as well as commission--upon a child, i.e., symptoms which indicate that harm has been perpetrated against a child or seem to put the child at risk and in need of care and protection from further harm. Child protective services are different from the usual social services rendered in the following major ways:

1. Child protective services are involuntary; they are initiated by public welfare agencies rather than ensuing from a relationship initiated by the client.
2. Protective service agencies carry the right to use authority. For the sake of the child's protection, the social agency or agencies may invoke the powers of the court.
3. Protective service agencies carry a higher degree of responsibility than do voluntary service agencies. In rendering protective services, the agency is, in effect, carrying out its obligation to the community in guaranteeing the rights of children.

The purpose of this chapter is to discuss child protective service programs, staffing and training, and service availability in the eight Southeastern states in Region IV. The final section of the chapter will be devoted to a detailed description of existing demonstration programs in the Region.

Child Protective Service Programs in Region IV

Child protective service programs in Region IV take on various forms due, in part, to the several areas to be herein discussed: (1) the auspices under which child protective services fall; (2) the source(s) of funding for the program; (3) the employer of protective service workers; and (4) orientation and in-service training programs.

In two of the states, child protective services are under the auspices of state public welfare. In four states the program falls under the auspices of state and county public welfare agencies. In one state, the program is under the auspices of county public welfare. And in one state the program is under the auspices of state and county welfare agencies and county juvenile court.

In those states in which the program falls under the sole auspices of state public welfare, it was indicated that activities for the program were centrally planned and controlled from the State Office. In the remaining states--those under either the county or state/county auspices--the activities were not centrally planned and controlled.

Knowing the agency or combination of agencies under whose auspices child protective services fall aids in understanding program operation and delivery of services. In states where child protective services are not centrally planned and controlled from the state level, the lack of coordination between parts may work to the detriment of a successful state program, and the delivery of uniform statewide services would be questionable.

It was noted that in states where program activities were not centrally planned and controlled, the State Office viewed itself as a policy-making

body and in an advisory position. In the states in which program activities were centrally planned and controlled, authoritative and administrative functions accompanied the policy-making and advisory functions. See Figure 4-1 for a crude representation of a centrally controlled and administered program. Figure 4-2 is a hypothetical representation of structure and operation in states in which the advisory and policy making functions are separated from the authoritative and administrative functions.* For purposes of clarity we have outlined a situation utilizing one region or other divisional state unit. There would probably be several supervisors in a given region with each county within the region having a county director.

In relation to political theory, one or more levels of authority should exist above the individual unit structures or subsystems within a coordinated super-system (Figure 4-1). The policy-making function devoid authority to enforce policy renders the policy-making body impotent and thus deems the super-system ineffective as a total system (Figure 4-2). Thus, what evolves is a situation in which each subsystem is an island unto itself.

Let us note some real problems for states in which there is little or no authority invested in the State Office:

Child abuse reports -- Records with incomplete data are received in the State Office--location of Central Registry--from county level.

Statewide efforts -- the State Office realizes the State's Child

*These figures are not representative of any one system within the Region. They are presented simply to emphasize probable differences between centralized and decentralized programs

Figure 4-1

Hypothetical representation of program structure and operation in states in which child protective services are coordinated from the state level:

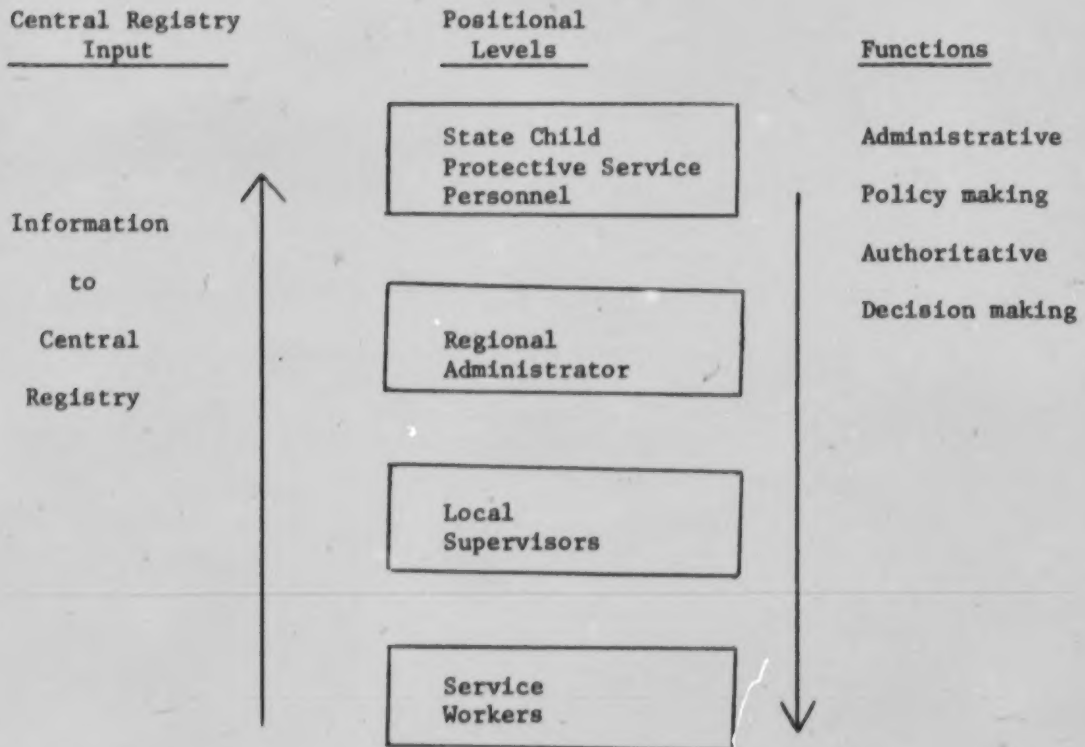
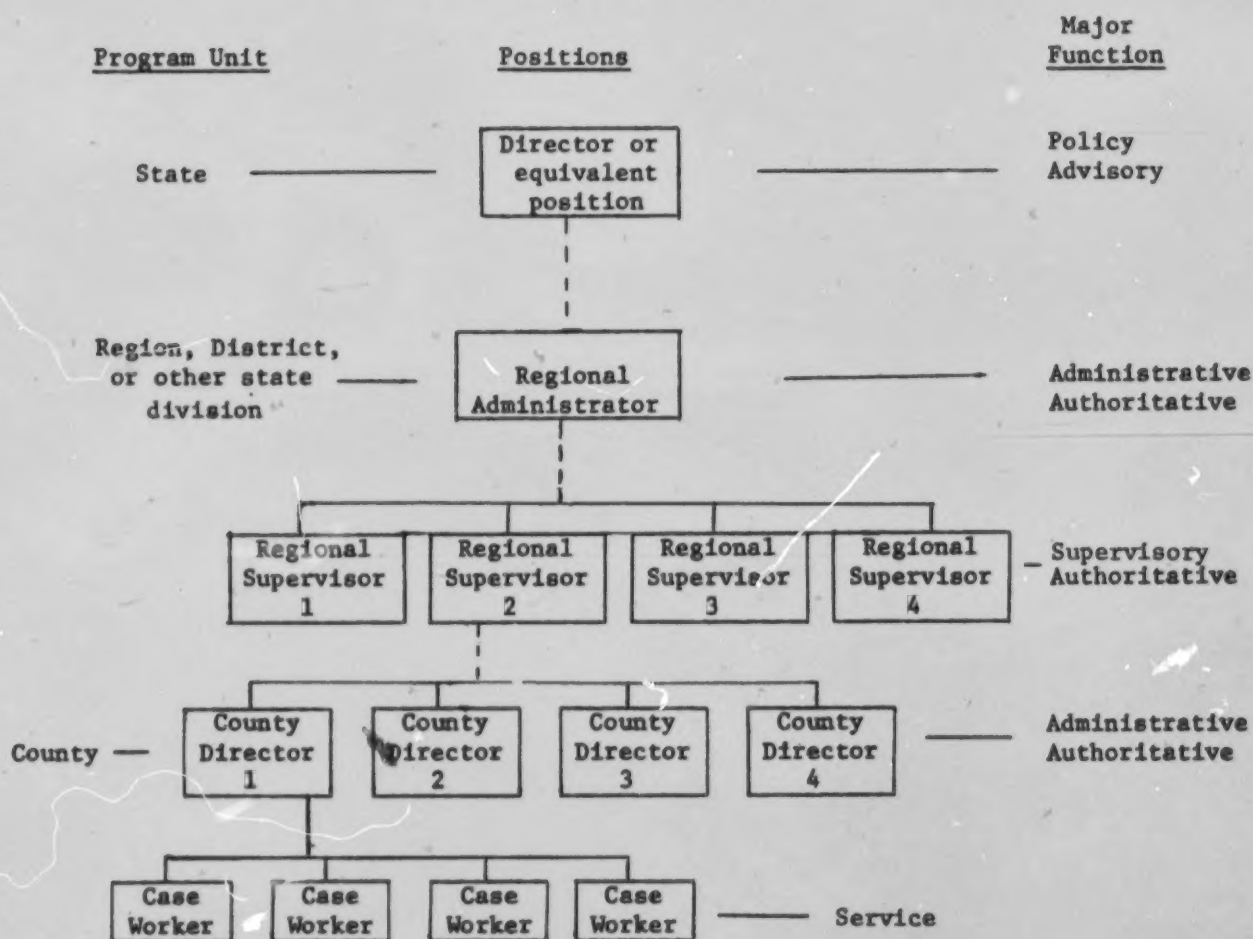


Figure 4-2

Hypothetical representation of program structure and operation in states in which child protective services are not coordinated from the state level:



Protective Service Program needs upgrading in terms of (1) more innovative and regularly scheduled in-service training programs; (2) a statewide focused effort to gain public awareness and support of the goals of the program; (3) initiating new treatment approaches for caseworkers dealing with child abuse/neglect cases; and (4) providing more and better services throughout the State.

Use of consultative services -- State Office personnel would desire counties to avail themselves of their expertise or of a nationally known scholar in the area of child abuse/neglect.

In the above problem areas what recourse does the State Office have in lieu of the vested authority to get things accomplished, e.g., reports completed and promptly returned, instituting statewide efforts, or disseminating information and/or uniformly exposing the program staff to new techniques and knowledge? The only possible recourse I can conjure up is to proceed through the hierarchical chain of command, and hope! However, there are several things of which we can almost be certain: (1) we can not guarantee uniform reporting throughout the state; (2) we cannot guarantee uniformity in service delivery; (3) we cannot guarantee that policy will have the intended effect; and (4) we cannot guarantee a well coordinated state program. Consequently, we cannot adequately assess the scope of the problem for the state nor the extent to which the state is dealing with the problem.

Aside from program structure and operation is the whole matter of funding. The spirit and intent to foster a viable protective service program would result in no more than a token program without adequate funding.

While we did not evaluate the states' budgets, none of the states indicated adequate funds to meet the needs of their program.

We noted the source(s) of funds for the program. The federal/state combination is the most common funding source in Region IV, with four states so funded. Child protective services in two states are funded through federal/state/county funds. And two states are funded by state resources only.

While there is no way from the results of this survey to determine the relationship between funding source(s) and program, it is likely that a positive relationship exists between funding source(s) and availability, content, and quality and delivery of services.

Related to program operation and delivery of services is the issue of who employs child protective service caseworkers. In four states, caseworkers are state employees. While in four others, caseworkers are employees of the county.

What orientation do states provide for child protective service workers prior to their working with child abuse/neglect cases? Seven states provide such orientation. The nature of the orientation varies significantly by states. Three states provide orientation for workers at the county level only. Two of the states providing orientation only at the county level, indicated that orientation is carried out on an individual basis and is informally structured. In the states' own assessment of the adequacy of coverage of the child abuse reporting laws during orientation, two of the states providing orientation only at the county level indicated inadequate coverage. An important point here is that these states are also among those in which the policy-making and advisory functions are separate from the administrative and

authoritative.

Four states provide orientation for service workers at both levels. The nature of orientation in three states is group and formal in structure at the state level. Two of these states indicated individual and informal at the county level, the third state both individual and group and formal and informal. The fourth state indicated individual and formally and informally structured at the state level; and at the county level, both group and individual methods are employed and structured both formally and informally. Three of the states offering orientation at both state and county levels indicated that the State's child abuse reporting laws are covered adequately. One state indicated adequate coverage at the county level only.

In-service training programs for child abuse caseworkers also vary among states. In two states, in-service training is coordinated at the state level. There are some very positive features of these in-service training programs: (1) in-service training is considered a well planned program by their own evaluation; (2) training is carried out in groups and is formally structured; and (3) training is offered on a regularly scheduled basis. For the six states in which in-service training is coordinated at the county level, the following is indicated: (1) State personnel do not consider the in-service training to be a well planned program; (2) four of the six states indicated that in-service training is informally structured; and (3) training in all six states is irregularly offered, one state indicated regular in-service training at the county level only.

We noted some basic activities constituting a good in-service training program: (1) staff meetings; (2) seminars; (3) utilization of consultants; (4) periodic staff evaluation; (5) periodic program eva-

uation; (6) professional meetings, conferences, and workshops, and (7) opportunity for participating in education programs. Additionally, the states were asked to list any other features of their in-service training program. The average number of activities was 4.6. Seven states included staff meetings, consultative services, and staff evaluation in their program. Program evaluation and educational opportunity were included among in-service training activities in only four states, while professional meetings was common to all eight states. Five states utilized seminars.

Based on the activities included in the in-service training programs in the separate states, it is impossible to assess the degree to which the inclusion of the activities represents the nature of the training programs. This is especially true since states indicating that their programs are not well planned indicated basically the same activities as those states where in-service training is a well planned program.

In sum, there appears to be no pattern to differentiate the states' in-service training programs in terms of activities. What we can assess for the Region in terms of activities is the notable lack of program evaluation in four states. While all the listed activities are basic to an in-service training program, it would seem that there would be a significant relationship between program evaluation and program success.

To summarize this section on child protective service programs in Region IV, it is necessary to emphasize two points. First, while the majority of the programs come under the auspices of both state and county public welfare, there is reason to believe that where programs come under state auspices only and/or are centrally coordinated and controlled from

the state level, the programs are most effective in terms of program operation and probably delivery of uniform statewide services. And second, this survey indicates that in Region IV child protective services is an identifiable and specialized area of child welfare. However, in most of the states the programs have evidently not progressed too far beyond spirit and intent. This point becomes more evident after an assessment of available resources in a subsequent section.

Staffing and Training in Region IV

From recent research on abused and/or neglected children, we know that these children come from families in which acute and complex problems exist. We have come to realize further that punitive actions against the abuser do not alleviate the problems. If these children and families are to be treated, with a degree of success, toward the end of protecting children, preventing further abuse and neglect, and preserving family life where possible, then the child protective service program must include adequate staff to meet the needs of all cases reported. Staff must be well trained and equipped to deal with difficult situations common to the protective service caseload.

Common to six of the eight states is inadequate staff to meet the needs of both abused children and abusing parents or other adults. One state reported adequate staff for abused children but inadequate staff for abusing adults. Only one state reported adequate staff for both abused children and abusing parents. Service workers are generally overworked in terms of their caseloads throughout the Region. One state indicated that due to the discrepancy between cases reported and available workers, the program itself is moving in the direction of a "case-finding device" rather than a service delivery program.

There are, indeed, arguments for and against utilizing workers with bachelor degrees at the service level.* The attitude of the states on the subject is of little consequence. What matters is their realistic situation. All of the states indicated that the overwhelming majority of child protective service caseworkers hold only the bachelor's degree. In seven of the states, the bachelor's degree is the highest earned degree held by caseworkers; and in one state, an estimated five percent of the protective service caseworkers held a graduate degree. All of the states indicated they used paraprofessionals in some areas of service delivery.

To add to the inadequacy of staff as generally reported by the states is the state of in-service training programs which was discussed in a preceding section. In general, these programs are not designed to give service workers the experience, the exposure to new treatment approaches, or the perspective needed for growth in the profession. As we discussed earlier, in-service training programs in Region IV are normally not well planned, offered on an individual basis, informally structured, and offered irregularly.

Resource Services Available

This section of the report deals with the resource services in terms of availability, quality and content as assessed by personnel in each state office. The disturbing fact is that in none of the states has the child protective service program been developed in size to meet all of

*For a pro-argument see: John A. Brown and Robert Daniels, "Some Observations on Abusive Parents," Child Welfare, XLVII (February, 1968), pp. 89-94. See: Andrew Billingsley, The Social Worker in a Child Protective Agency (New York: National Association of Social Workers, 1964), Mimeographed for an argument against.

the service needs of all cases of child abuse and neglect reported in their state. Let's note the following services:

	<u>N</u>
Intake referral	8
Medical	8
Psychiatric	8
Psychological Testing	8
Legal service	5
Casework	8
Group	5
Family life	4
Day care	7
Foster home	8
Institutional care	6
Adoption	8
Others	

In terms of availability of services, most of the states provide the above basic ones. Three states do not provide legal services and group services. Four states do not provide family life education. One state does not provide day care. One state indicated that abused children are not institutionalized, while another indicated that all child caring institutions are under private auspices.

In terms of geographic coverage, none of the states indicated that services were equally available throughout the states. Common comments were as follows:

"Not all services available in every county but in a nearby area."

"Available to a greater or lesser degree in most areas of state."

"Not readily available in isolated areas."

In terms of quality and content, none of the states indicated adequacy of all services. The overwhelming majority indicated inadequate institutional care, foster home, and day care. Three states indicated inadequate casework services in terms of quality and content. Accounting for inadequacy of services, most states indicated one or more of the following:

1. limited funds
2. limited staff
3. lack of trained staff (casework, group, family life)
4. lack of community facilities and resources.

Thus none of the state departments of welfare reported adequacy of services in geographic coverage nor in terms of quality and content.

And we can be certain that if each county within the states was assessed, the picture of child protective services would be even more disturbing.

While most of the services are available to a lesser or greater degree in each state, there seems to be a pattern in terms of adequacy of geographic coverage. The most specialized services, e.g., medical, legal, psychiatric, etc. are less accessible statewide (see Tables 4-3 and 4-4). Beyond this, the services designed to help remedy an abusive family situation, e.g., case-work services, foster home services, institutional care, and day care are most inadequate in quality and content.

Special Demonstration Programs in Region IV

There were two special demonstration programs reported on in Region IV, one in Tennessee and the other in Florida. This section is devoted to a detailed description of these programs in terms of scope and purpose, unique services provided, program operation, and problems encountered, if any were reported.

A. Comprehensive Emergency Services to Neglected-Dependent Children (Tennessee)

Scope and Focus -- The program, which was approved by the Office of Child Development, Health, Education, and Welfare, June 17, 1971, covers the Metropolitan Nashville area. The program is

under the auspices of the Davidson County Department of Public Welfare and is directed toward providing emergency services to neglected and dependent children enabling them to remain in their own homes, or when removal is necessary, providing an orderly process for the child and his family, minimizing the traumatic effects to the child.

Services Provided -- Four new services, in addition to existing services, are provided. These services provided on a twenty-four hour basis are:

1. Twenty-four Hour Emergency Intake: This service is designed as an answering service to screen calls and refer emergencies to the caseworker on call. This service is especially important for nights and weekends.
2. Emergency Caretaker Services: Caretakers provide temporary care, usually for only a few hours, in unforeseen emergencies which occur at night leaving children without parental supervision.
3. Emergency Homemaker Services: These services are provided on a twenty-four hour basis for the purpose of maintaining children in their own home until the resolution of a crisis which makes it impossible for the parent to carry out his routine parental responsibility.
4. Emergency Foster Home Services: These services are designed to minimize the emotional shock of the removal of children from their own homes by providing them with a home environment as an alternative to the routine housing of all children temporarily in an institutional placement prior to court hearings.

One, or a combination of these services in conjunction with existing child protective services, are used to meet the needs of children and their families during times of crisis. In urban communities, in particular, the need for such emergency services are most acute during nights and on weekends.

Specific Program Objectives -- The objectives of the program are as follows:

1. Reduce the number of children being removed precipitously from their homes.
2. Reduce the number of children who have to go through the legal system unnecessarily.
3. Plan orderly placements for those children who must be placed.
4. Set goals for children who come into emergency care with decisions to return to their parents or relatives made within a reasonable time (2 weeks to 1 month).
5. Develop placements that more nearly meet the needs of children who must remain in care.
6. Show cost effectiveness based on utilization of staff time and cost of emergency services.

Plan of Operation -- The procedural steps involved in this program are: (1) intake; (2) screening; (3) investigation; and (4) disposition.

Intake. The five Emergency Service Workers operate on call on a rotating schedule with one worker being on call one day per week and one night per week as well as one weekend per month. Someone is designated to work on holidays. A monthly schedule is posted giving the name of the worker on call and back-up staff. Calls during the day are received by the intake worker (Emergency Service Worker) in the project office. From 4:30 p.m. through 8:00 a.m. calls are relayed to the worker's home through a

commercial answering service. The major referral source at night is the Youth Guidance Division of the Metro Police Department.

In addition to project staff a Court worker from the Intake and Classification Unit is available at all hours. The Court Unit which is comprised of six workers--either one or two workers on a given shift--operate on an eight (8) hour shift and are "physically" present at all times to take calls and refer them to the Emergency Service Worker on call.

The screening process or the expediency with which calls are investigated depends upon the degree to which a case is defined as an emergency. Project personnel indicate that the following types of situations have been categorically earmarked for immediate intervention: (1) reports of children left unsupervised or improperly supervised; (2) child abuse; (3) gross neglect due to hazardous living conditions; (4) children in need of immediate planning due to severe family conflict and disorganization; and (5) family crises involving situations which might result in children going before the Court. Neglect complaints which do not fall within the above types are not investigated immediately; they are routed to the Protective Service Unit for investigation.

Investigation-- The worker on call both day and night has back up workers who assume responsibility for intake as such action becomes necessary, e.g., when there are several concurrent calls or when the primary intake person must be in the field and unable to perform the intake function. The back up worker relieves only until such time as the worker on call has completed her field duties and is able to resume primary responsibility for intake. Each case defined as an emergency reportedly is assessed immediately in the field by the Emergency Services Worker on call and the Protective Service Worker from the Juvenile Court. If a call is taken at the Juvenile Court

intake, the Court Protective Service Worker notifies the Emergency Service Worker; both workers investigate the situation by visiting the home and/or any other contacts which may aid in the assessment of the case.

Case Disposition--Based on the results of the investigation, the workers take the appropriate action to solve the immediate crisis and to protect the child. This may include one or more of the following:

- (1) They locate the parents/substitutes and offer necessary emergency assistance to resolve the crisis enabling the family to remain intact.
- (2) They locate reliable relatives who are willing to supervise the child until other plans can be arranged.
- (3) Where immediate placement seems indicated, they take the child into custody in accordance with the procedure for the removal of children.
- (4) An emergency homemaker is assigned to those situations where a parent and/or responsible relative is in the home but is unable to meet full parental responsibility. A caretaker may be used to supervise children initially until the homemaker is available.

Emergency Homemakers. Homemakers have several different kinds of case involvements as follows:

- (1) 24-hour cases where the homemaker has full responsibility for children in the absence of both parents. These referrals result mainly from illness of a single parent.
- (2) Extended hour cases where there might be a father caring for children following desertion or illness of the mother. The homemaker might go into the home as early as 6:00 a.m. and stay until bedtime with the father assuming responsibility for care of the children at night.

- (3) Emergency cases specifically for purposes of relief with teaching being a longer range objective. These have included both child abuse, failure to thrive as well as some gross neglect, involving severely disorganized households where nutrition and medical care are a problem.

Emergency Homemakers have also functioned in another capacity which is perhaps not within the traditional role of a homemaker, in that they have been assigned to expedite the case plan with certain family crisis situations. With a typical situation involving a family requesting placement of the children because they have no resources; the Emergency Homemaker is assigned following the worker's initial assessment of the situation. The homemaker assists the family in securing the needed resources to begin to function independently, i.e., transportation to Food Stamp Office or providing child care while the mother is there; transportation to apply at various housing agencies; transportation to apply for job or job training, medical clinics; legal services, and resources for furnishings and clothing.

Emergency Foster Homes. There have been up to eight (8) emergency foster homes, but the project is now operating with six homes which have a total capacity for 26 children. According to project personnel this is not adequate; however, the situation has not been crucial as they continue to have space for other children at Richland Village, which is the old emergency shelter care facility operated by Metropolitan Government. The 14-day emergency care program as operated by this facility has some 24 spaces which can be used when there is absolutely no project space available, or when a group care facility seems more appropriate.

Emergency homes differ from regular foster homes in that they receive children at any hour and usually without preparation such as preplacement

visits. Children are also placed for shorter lengths of time. These factors combined with the fact that children often come into emergency care in poor condition both physically and emotionally thus requiring a great deal of attention, place a tremendous demand on these homes. Essentially the demands are greater on the emergency parent.

This emergency care program has had to deal with problems such as the child whose regular placement breaks down and emergency home space must be used to provide care for that child. Another problem is the child who because of his age and/or emotional problems is able to adjust to a particular emergency home and therefore remains in that emergency home because it is the most suitable placement for that child. Even though the service is designed for emergency and temporary placements, project personnel indicate that they have primary responsibility to the individual child and his adjustment.

Emergency Caretakers. This service, designed as a source of temporary supervision until a Homemaker is available, has not been used as extensively as anticipated. Accounting for this, according to project personnel, is the ingenuity of workers in devising plans for children. From the outset caretakers were expected to be used for approximately two cases per month; the project presently averages less. The duration of a given assignment is usually eight to ten hours.

Staffing--As of July, 1973, the Emergency Services Unit was comprised of the following staff:

- Five Emergency Service Workers
- One Supervisor of the Emergency Service Unit
- One Supervisor of Emergency Homemakers

-- Ten Emergency Homemakers--previously there were four.

--One aid

-- Two Welfare Workers II--previously three (The welfare Workers II are responsible for recruitment and supervision of emergency homes in the foster homes component of the program).

Problems Encountered--The Major problems have been in two areas--staffing and coordination between agencies. Personnel. It was reported that during the first year, "tremendous" problems were encountered in getting the necessary personnel hired. This was due, in part, to the State Personnel Section which created "undue" delays in the appointments of emergency homemakers. Staff recruitment was a problem. It is felt that recruitment for the positions was slow because of the demands of the job--total responsibility for a family on a 24-hour basis for periods of time. Another problem in this major area involved the compensation plan which in its original form proved to be insufficient. Project personnel report that these problems were somewhat alleviated through efforts to make State Administrators and community agencies aware of them. Consequently, they have been able to get some priority given to appointment of emergency homemakers and to adjustments in salary range.

Coordination. Coordination between the various agencies presented a "serious" problem at the outset of the program. It was reported that even though the expected roles had been clearly defined with written procedures and had been accepted by the major agencies--Juvenile Court's Intake and Classification Unit, the Richland Village, and the Youth Guidance Division of the Metro Police Department--Once the project became operational, these constituents continued some old practices, e.g., routinely filing petitions, and/or they began changing their procedures. It was reported that such actions will have an adverse effect on the operation of the entire system.

One of the biggest problems has centered around the initial handling

of child abuse cases. Project personnel indicate that the Police Department has continued the practice of filing criminal charges against abusive parents and have pursued cases in a very punitive manner. This approach has been a deterrent to the task of the emergency services workers who must do follow-up with such parents and deal with the situation in a more therapeutic and rehabilitative manner.

To alleviate these kinds of problems, project personnel have resorted to various means. One way has been to include the Police Department for input regarding policy and procedure in the actions of the Projects Executive Coordinating Committee. Project Personnel have worked closely with the Vanderbilt University Hospital's Child Abuse Team in an attempt to educate the community toward a more humane attitude toward the abusive parent. Child Abuse Workshops and the mass media have also been employed.

It appears that there are merits to such a program as herein described. Although the project is designed to handle crises rather than to deliver long-term services, there appear to be built in devices for planning and referral to appropriate existing service units for long-term services. The project is most accurately defined as a crisis intervention program with the ultimate goal of protecting children while keeping families intact.

B. The WATS System: Reporting and Implementation (Florida)

Scope and Focus -- The WATS is a centralized reporting system which is available to the citizens of Florida on a twenty-four hour seven days a week basis. This system was set up in response to the expressed intent of the Florida Legislature to provide protection for all of the State's children who come under jurisdiction of the child abuse statutes. The program is centrally controlled and coordinated from the State Office, Division

of Family Services.

Services Provided -- The services provided in themselves are not the unique feature of the program; the program is unique to the nation. Below is a brief description of two of the unique services which will be elaborated on in a subsequent section:

1. Twenty-four Hour Emergency Intake: The WATS System is a twenty-four hour, seven days a week answering service designed specifically to handle all reported cases in the State.
2. Investigative Services -- As reported by State personnel, all calls, with the exception of some instances in the metropolitan Jacksonville and surrounding areas, are responded to within a few hours.

Program Objectives -- While not specifically stated, the objectives of Florida's WATS System of reporting are:

1. to open a channel through which all identified cases of child abuse/neglect can be reported without undue burden to reporters;
2. to respond to calls with deliberate speed;
3. to explore all calls without seeking screening devices;
4. to follow through on the investigation with assessment of the harm suffered by children in all reported incidents;
5. to evaluate the circumstances of the reported incident as well as the environment in which the incident occurred and/or where the child lives to determine if the child will be exposed to further abuse/neglect;
6. to offer the services warranted for each situation; and

7. to invoke the powers of the court on behalf of the child when need is indicated.

Plan of Operation -- The procedural steps basic to this program are: (1) intake; (2) investigation and (3) disposition. Intake. There are two inward and outward WATS lines utilized in the receipt and dispersal of child abuse reports from all parts of the State. In addition, there is a hot line serving the Jacksonville area. The lines are manned on a twenty-four hour, seven day per week basis. When an incident is reported first via the WATS line, the worker manning the line completes the DFS-CS-206-A form which includes basic background data on the child and the incident. The worker receiving the call at the state level relays the call to the caseworker on duty in the county in which the incident occurred. Theoretically, this is done immediately; however, during periods of the day when inward calls on the WATS lines are not spaced in time, the calls to the particular county may take a few hours. Night calls are relayed to the worker on call in her home.

As the program is an aspect of the State's Central Registry, copies of the registry form completed at intake are mailed to the appropriate county offices and the Central Registry maintains its copies.

When the abuse incident is reported to the county or local office first, the caseworker on call has the responsibility to investigate. At that time the 206-A form is completed with the appropriate copies dispersed locally and to the Central Registry.

There is no process for screening the calls to be investigated. The intent and purpose of the program is to handle all reported cases. Of course problems are being encountered. These we will refer to in a subsequent section.

Investigation -- When the call is received by the worker on call at the local level, she is required to take the necessary action to investigate the incident, as well as to call upon the appropriate community agencies for assistance, if needed. Just as this is so, representatives from law enforcement and other agencies which have need for a social worker, particularly during the off hours, take advantage of the WATS number to receive assistance through the social worker on call in the specific county.

According to state child protective service personnel, most reported cases are investigated within a few hours. It's mainly in the Jacksonville area, which is hard hit by such reported cases, that up to possibly forty-eight hours lapse between initial contact and investigation. This expediency has important implications for reported incidents of abuse; because when a significant period of time lapses between contact and investigation, much of the observable evidence on which definition of physical abuse is based is dissipated.

Following the investigation and the decision on case disposition, the DFS-CS-206-B is completed, with the appropriate copy maintained in the local protective services office, and one forwarded to the Juvenile Court and to the Child Abuse Registry.

Case Disposition -- When the intake study reveals that an abusive and/or neglectful situation exists, but placement is not necessary, a casework plan is developed including short and long terms goals for working with the family toward protecting and preventing further harm and to stabilize family life.

The removal of children from their home, when the action seems necessary may take place at several points in working with the family. When such a determination is made, the parents and the child, if he is

old enough, are helped to recognize why the need for placement exists and workers attempt to prepare them for it. A plan is worked out with the parents setting definite goals on what needs to be accomplished in the event the child is to be returned to their custody.

In working with families which remain intact or in which the goal is stabilization, all appropriate community resources are called upon to help the family meet their own expectations as well as those of the agency.

Staffing -- From the outset October 1, 1971, staff included five social workers who man in-going and out-going WATS lines on a twenty-four hour, seven days a week basis. There were 186 social workers covering all sixty-seven counties in Florida. In addition, there were thirty-one social worker supervisors, eleven region casework supervisors, and supplementary clerical staff in the program. As of July 1972, ninety additional positions were transferred into the program from other programs in the Division. In addition to professional staff in the program, paraprofessionals are used especially for rendering homemaker services.

Problems Encountered -- One major problem encountered, which is common to most of the states, is a manpower shortage. This shortage is understandable, when one considers that by the end of March, 1973, there was a cumulative total of well over thirty-one thousand children reported. At the State Office--Central Registry and location of WATS lines--the manpower shortage is a major problem. During times when calls are coming in continuously, some callers naturally must be put on HOLD. This necessary recourse has resulted in losing many callers. More specifically, the demand for the two manned inward lines is disproportionately greater than the existing supply of both manpower and available WATS lines.*

*Over 150 new positions have been requested for the total program.

The above problem has inevitably led to one of lowering morale on the part of the staff. When callers who have been placed on HOLD are lost to the social worker manning the line, he feels depressed and helpless in a situation which he was not able to render aid. One point to emphasize here is that social workers, not clerical or operator personnel, man the WATS lines. They are oriented to assisting the caller in whatever ways possible; sometimes this involves intensive counseling and giving support to the caller. The need for this latter involvement, too, has added to the morale problem. With the requirement to answer every call, the social workers cannot give the kind of service via phone they often desire and feel pressed to give.

A second major problem involves the lack of community resources to meet the needs of the children. There are not enough foster homes, shelter provision, etc. So the question becomes: so kids are found, now what?

A third problem which was felt initially, but has progressively diminished, centered around the barriers to service delivery set up by various administrative levels. If we note Figure 4-1 briefly, we see that in this instance, the State by-passes a major administrative level --regional or district--to deal with county staff. If the call is relayed to the county level during the late evening or night, the State deals directly with the service level, the caseworker on call.

Undoubtedly, two major features aided in breaking down resistance: (1) administrative authority invested at the state level, and (2) the desire of all constituents of the super-system to carry out the expressed intent of the Legislature espoused in the reporting law to the end of rendering services.

A small problem encountered results from calls of a non-abusive/neglectful nature. Some such calls are false reports; cases involving attempts on the part of the reporter to obtain custody of a child; and some cases emanating from teenagers' anger with their parents. The Department has also encountered reports involving teachers' alleged abusive acts toward students. In this, the Department is hard pressed for a solution since the State's statutes allow physical punishment by school personnel.

In the interest of the total program, the above problem area is considered of little consequence by program personnel. The attitude seems to be that such reports will be made under any reporting system.

An aside. In terms of provisions of the law, it may be valuable to any reporting system to publicize the immunity provisions, e.g., reporting in good faith, as an attempt to minimize false reports and crank calls.

So much for the description of the system, let us now note the features responsible for the success of the program and the extent to which Florida's experience reflects the national situation.

The success of the program is credited by State personnel to the extensive publicity campaign. Statewide publicity involved (1) disseminating the WATS line number; (2) utilizing posters and billboards; (3) employing radio and television spots for pre-taped publicity materials; (4) making use of bumper stickers and (5) engaging in addressing groups. All of these features are on-going concerns to keep the matter before the public eye.

It is the opinion of program personnel that the number of reported cases of abuse and neglect in Florida is representative of the actual incidence nationwide. Keep in mind, however, that among the states in

Region IV, Florida has the most pervasive law in terms of population of children covered. While the fact cannot be documented, it is reported that well over sixty percent of all cases are confirmed and valid. Even such a percentage is startling; to add to that percentage, it was reported that a small percentage of cases in which abuse/neglect was ruled out initially turned out to be abuse later.

Let's look at these percentages in strict physical abuse terms. Over six thousand such cases had been reported by the end of March, 1973. Sixty percent of these cases (including 27 deaths, 40 skull fractures, 111 broken bones, 183 burns and numerous cuts, bruises, and beatings) would mean well over three thousand cases of physical harm to children.

Is this kind and extent of abuse unique to Florida or is it representative of abuse throughout the nation? This question is presently unanswerable. It is one however, to which funding agencies, researchers and the public must address themselves. Funding agencies must be prepared and willing to appropriate funds for programs based on Florida's WATS System. This may be the only way to determine the representativeness of abuse/neglect reported in Florida. Researchers must begin to go beyond the small-scale local studies to those from which implications for abuse in general can be drawn. And the public must begin to alert themselves to the abuse suffered by our nation's children and report same.

Table 4-1

Aspects of Child Protective Service Programs in Region IV

Auspices under which child protective Services	Number States	Funding for Child Protective Services	Number States	Employer of Child Protective Service Caseworkers	Number States	Orientation* Prior to Case Assignment	County Level 3	State & County 4	In-Service Training Level	County Level	State Level
County	1	State	2	County	4	Mature of orientation:			Training is coordinated	6	2
County/State	4	Federal/State / county	2	State	4	In groups		3	Training is an on-going concern?		
State	2	Federal/State	4			Individual	4	1	Yes	6	5
County/State & County Juvenile court	1					Both	3		No	1	1
						Formally Structured		3	A well planned program?		
						Informally Structured	4		Yes	5	2
						Both	3	1	No		4
						Adequate coverage of reporting laws			Utilization of consultants?		
						Inadequate coverage			Yes	4	5
									No	1	1
							5		Carried out:		
									In groups	1	5
							2		Individually	6	1
									Both		
									Structured:		
									Formally	1	4
									Informally	4	1
									Both	2	1
									Offered:		
									Regularly	1	2
									Irregularly	5	4

*One state reported orientation is not given prior to case assignment.

Table 4-2

A Suggested Beginning Profile of a Successful
Child Protective Service Program Based on Certain Structural Program Features

Program Features		Profile of the Successful Program
Auspices	State public welfare	1. Program is planned, coordinated, and controlled at state level 2. In-service training program is coordinated at state level 3. Training is an on-going concern 4. Training is primarily group structured 5. Training is formally structured 6. Training is offered on a regular basis
Funding	Federal/State	
Employer of Child Protective Service workers	State	
This tabular representation is based on the results of the survey. It is not proposed as a workable model. Beyond these structural features would necessarily be those pertinent to identification of cases, delivery of services, and feedback operations between county departments and the central registry.		

Table 4-3

Professional Health Service Personnel, by States (1968)

	Non-Federal Dentists (per 100,000 pop.)	Production of Dentists 1968	Non-Federal Physicians (per 100,000 pop.)	Production of Medical and Osteopaths 1968	RN Nurses Employed 1966 (per 100,000 pop.)	RN Grads 1968
United States	53		132		313	
Alabama	29	42	75	71	168	85
Florida	45	--	126	132	369	171
Georgia	28	67	93	159	156	69
Kentucky	33	94	90	150	198	100
Mississippi	25	--	69*	65	157	17
North Carolina	28	45	91	203	244	183
South Carolina	22*	45**	72	66	217	43
Tennessee	36	141	102	240	175	116

-- Represents None.

* Lowest in Nation.

** 1st graduating class 1971.

Source: U.S.D.H.E.W., P.H.S., Health Resources Statistics: Health Manpower and Health Facilities, 1969, 1970, Tables 37, 40, 85, 87, 93, and 98.

Table 4-4

Number of Lawyers, In Region IV by States (1970)

State	Total Population (in millions)	Total Lawyers
Alabama	3.4	2,712
Florida	6.8	7,801
Georgia	4.6	4,824
Kentucky	3.2	3,353
Mississippi	2.2	2,201
North Carolina	5.1	3,637
South Carolina	2.6	1,896
Tennessee	3.9	4,251

Source: South Today, January 2, 1971.

CHAPTER 5

CHILD ABUSE CENTRAL REGISTRIES IN REGION IV

A central registry of child abuse should be comparable in intent and purpose to the communicable disease registry commonly used in the public health field. Information on incidence of a disease, subclassified by type, locality and time of occurrence, and population affected, is indispensable to health authorities in developing and coordinating control measures for the disease. Similar data gathered and orderly maintained on the incidence of child abuse and neglect will undoubtedly be invaluable in designing effective methods of control and prevention.

The overall purpose of the central registry on child abuse, then, should be to house data on abused and neglected children--suspected and confirmed--which will assist in future reference in particular cases, i.e., the identification of repeated abuse; to serve as a source for instant information on abuse and neglect in general; and to serve as a data bank for needed research.

How a central registry will operate depends on a variety of factors: (1) it must be related to the purpose of the law and to the items incorporated in the law governing reporting of abuse, (2) it will reflect the intent of the mandated or agency or agencies assuming the responsibility to maintain the registry to carry out the expressed goal of the reporting law; and (3) it will reflect the mechanics set up to make the system operative.

The major elements of the law governing reporting, i.e., who is to report and to whom, how reports are to be made, type report, etc., have been discussed in a previous section. And it is not within the purview

of this report to assess agency or agencies motivation and intent to carry out the expressed goal of the reporting law. Thus, this chapter is devoted to the mechanics set up to make the system operative.

Legislative Base

Prior to reporting laws, public as well as private welfare agencies were rendering services to abused and neglected children. Legislation legitimized the act of reporting and mandated the broad guidelines through which reporting and protective services were to be accomplished. The law became the expressed policy of the state's legislature to protect children from harm. So it may be with the operation of the state's central registry. A mandate in the law may effectuate changes in a state's central registry. This, of course, is an unsupported statement. How be it, the states in Region IV are evenly divided on the base for the central registry. In four states--Alabama, Georgia, Kentucky, and Mississippi--the central registry is maintained by administrative policy of the department of public welfare. In the remaining four states--Florida, North Carolina, South Carolina, and Tennessee--the department of public welfare has been mandated by the State Legislature to maintain central registries.

The laws mandating the department of public welfare to maintain the central registries differ in the expressed purpose for the registry. According to Florida's statute: "The information contained in the registry shall not be open to inspection by the public; provided that appropriate disclosure may be made for use in connection with the treatment of the abused child, or person perpetrating abuse, and counsel representing the person in any criminal or civil proceeding. Information contained in the registry may also be available for purpose of significant research relating

to child abuse." The purpose of the registry according to North Carolina's law is: "The State Department of Social Services shall maintain a central registry. . .in order to compile data for appropriate study of the extent of abuse and neglect within the state and to identify repeated abuses of the same child or of other children in the same family." Tennessee's law provides that "The department shall adopt such rules as may be necessary to carry out this section. Such rules shall provide for (1) cooperation with local child service agencies, including but not limited to hospitals, clinics, physicians, and schools, in identifying cases of harm caused by brutality, abuse or neglect; (2) purging reports upon a child's reaching eighteen years of age; (3) scientific or governmental research on child abuse without jeopardy to the rights of the children named in the file. . ."

Common to these laws is the goal of maintaining data for research purposes. South Carolina's law does not state the purpose of the State's central registries.

Local Registries--Four states in Region IV--Alabama, Florida, Georgia, and Kentucky--report that no local registries are established. In North Carolina, local registries reportedly have been established in more than half of the State. Mississippi reports that local registries have been established throughout the State "where cases occur." Uncommon to the other states in the Region, South Carolina is mandated by the law to maintain central registries at the county level only; while Tennessee's law provides that in conjunction with the State's central registry. . .Each county office of the department shall maintain a county central registry. . ."

With the central registry being a new approach to maintaining information in the area of child abuse and neglect, it is difficult at this time to determine the advantages and/or disadvantages in maintaining central registries at the local level. We may assume, however, that registries at both levels can strengthen the tie between the central registry at the state level and the regular service accounting system at the county level. Additionally, this may aid in the expediency and efficiency in forwarding and adding information to the central depository as it accumulates at the service (county) level.

Reporting Procedures

The central registries established in Region IV include information on all cases reported, i.e., suspected and confirmed cases of abuse and neglect, ruled out cases and cases indicating no follow-up or follow-up incompleting. In addition to basic identifying information on the child, the registries contain, in varying degrees, information on family background, the abuse incident, and information on the suspected perpetrator. In Region IV there is no uniform data gathering device; each state records items which evidently are considered most important for the purposes of the registry. We shall return to this point in a subsequent section.

The registry's procedures should be designed such that information about each reported case is relayed to the central registry as soon as possible after the information is obtained. This requirement necessarily involves coordination between constituents of the reporting system, i.e., reporters,

recipient(s) of reports, and the central registry. We have previously dealt with the relationship between the two former elements. The issue herein involved is efficiency and coordination between recipient(s) and the central registry. Matters relevant to this issue are the number of reports filed and the time lapse between the reported incident at the county level and filing at the central level.

The states in Region IV vary in the number of written reports filed in the central registry and in terms of the time limit specified for the filing of reports. In terms of the number of reports filed, four states --Alabama, Georgia, North Carolina, and Tennessee--receive one written report. The central registries in Florida, Kentucky, and Mississippi receive an initial and a follow-up report on all reported cases of suspected abuse/neglect.* In each instance the central registry receives the written reports from the county department of public welfare.

The states in Region IV vary significantly in the time between the reported abuse incident and the specified time allowed for reports to be filed at the central registry. In one state, the initial report is completed at the point the complaint is received and forwarded immediately to the central registry. The follow-up report follows the conclusion of the investigation. In another state where two written reports are filed at the central registry, ten days are allowed for caseworkers to complete the initial report form and the county department of public welfare is required to submit the second report to the central registry with "deliberate speed." In one state where only one written report is filed at the central registry,

*Central registries are maintained at the county level in South Carolina; two reports are filed.

the county department of public welfare is requested to file its report within thirty days. It was reported by three states that the time set by the state office in practice has little meaning. County offices do not relay reports with deliberate speed and most often they have to be coached to return child abuse forms requiring additional information. Coincidentally, these are states in which the child protective services are not under the auspices of the state department of public welfare.

In none of the states in Region IV are there uniform provisions for reports to the central registry beyond the required initial and/or follow-up report. The case, unless future reference is necessarily made to it, is generally lost to the central registry. There is little or no accounting of the services rendered and the effectiveness of such services. Cases in point are those on file, from previous years, for which no follow-up is indicated.

It would seem that the most expedient and efficient procedure of reporting to the central registry would involve an immediate initial report following the reported incident via telephone or otherwise and a written report at the conclusion of the investigation indicating the findings, agency or agencies disposition, and proposed actions. In addition, to be able to adequately assess the total child protective service program as well as to include necessary data for research, it appears that the reporting systems in Region IV need to be modified to the extent that a continuous feedback process is included. What services are rendered in what kinds of cases and how effective were the services? In what instances was placement advised/not advised when later incidents indicated the reverse decision should have been made?

Information Recorded

As discussed earlier, four states receive one report at the central registry and four states receive a second (follow-up) report. In the instances where two reports are submitted to the central registries, the first report normally includes basic background information on the child, information on the inflicted injuries, and locating information on parents and the suspected abuser(s). A review of the tabular summary at the end of the chapter will indicate the contents of reports, initial and follow-up by states. The discussion herein will be focused on the data which are not uniformly recorded throughout the Region, but which have far reaching implications for program planning, control, and research.

Undoubtedly, time of abuse incident has wide implications for program planning and prevention. Yet, only two states in Region IV systematically records time of incident at the central registry. Similarly, only two states record data on the socioeconomic background of the family. In relation to causation of abuse, there can be little doubt that situational conditions and frustrations, e.g., unemployment, low income, etc., are precipitating causes of personal frustrations and ensuing actions. The size and age of children in a family may give leads about the factors operating against high frustration tolerance levels; yet, only three states in Region IV records data on family composition.

Some recent research points up the fact that abuse may result from prior abuse and/or incapacities of parents and of the incapacities of abused children which require high tolerance levels for coping with the deviances. None of the states in Region IV systematically acquire and report data on parental

prior abuse or deviances. And only one state systematically reports data on deviances of the child.

Pertinent to the assessment of the seriousness of the problem of child abuse and neglect is a consistent and systematic recording of data relevant to the seriousness of the injuries inflicted on the child. None of the states in Region IV systematically records the seriousness of injuries. This lack in recorded data may reflect limitations in the reporting instrument and/or the lack of cooperation and coordination in efforts between medical personnel and social service agency personnel.

One of the most important involvements of child protective service personnel is their relationship to the juvenile court. As we shall note in a subsequent chapter, the agency-court relationship is beset with problems, some of which are presently unanswerable due to level of accumulated knowledge. One of the most common problem areas, as well as perhaps the most conflictual, is that in which agency and court differ on case status in terms of definition and disposition. Undoubtedly, there are many researchable questions pertinent to the gap in agency-court relationship--what criteria do judges have to employ in determining the status of a child abuse case? What knowledge needs to be acquired and subsequent programs developed to ensure more compatibility between agency and court judgment? Yet, not a single state in the Region records data indicating the agreement or the lack of it between agency and court case disposition.

Filing and Recording Systems

The filing and recording systems in Region IV represent as many different systems as there are states. One system is approaching the sophistication

of computer programming and another has so planned, while others have cross referencing filing systems, and still others are crude and far less suitable to effecting the goals of the central registry than no system at all.

In four states, data on cases of abuse and neglect are filed in a family folder, i.e., data are included not only on the incident but detailed descriptive background accounts of the family situation are generally included. In one such system, each family case record is given a number as well as each abused child within the family being assigned a different identification number. The State Department of Public Welfare in this state has begun the process of working out details for submitting central registry data to a computerized system for instant retrieval.

On the other extreme is the situation in which filing and recording have not progressed beyond the point of placing record forms, as received, in convenient unlabeled folders.

In the three other states utilizing family folders, cross reference methods are employed in filing. In one state the family is cross referenced by the abused child's name. It is felt that this procedure handles situations in which families remain intact within a locale with the exception of placement of the abused child or children. In other words, a child may be located after he has been removed from his family. In this state each child is given a separate number. In the remaining two states, all children in a family are given the same identification number.

In only one state in Region IV has a system been worked out for instant retrieval of data. In some states this lack is due, in part, to the fact that efforts are just being initiated; in other states, this is due primarily to the fact that plans have not been incorporated in the maintenance of the central registry to fulfill this invaluable function. None of the

states in the Region cross reference or file data by type(s) of injuries.

In terms of interstate handling of abuse and neglect cases in the Region there is room for a great deal of improvement. To date, there appears to be only one state in the Region that can handle such cases expediently and efficiently. Other states in the Region have worked out cooperative communication procedures with other states, but there seems to be no uniformity in procedure or in obligatory commitment. Regarding this lack, it is suggested that states within the Region meet for the purpose of agreeing on several grounds relevant to dealing with incidents of abuse: (1) to gain an understanding of the family in flight in face of reported abuse; (2) to commit themselves to a uniform procedure for following through with such a family that crosses state lines for the purpose of evading agency or agencies' intrusion in the problem; and (3) to develop specific guidelines for interstate communication and cooperation in such cases.

Table 5-1
CHILD ABUSE CENTRAL REGISTRIES IN REGION IV

STATE	CENTRAL REGISTRY	YEAR ESTABLISHED	LEGISLATIVE BASE	LOCAL REGISTRIES	REPORTING PROCEDURES	CASES REPORTED TO CENTRAL REGISTRY	INFORMATION RECORDED		
							First Report	Follow-up	
Alabama	Central File	--	No provision in the law. State Department of Pensions and Security main- tains a Central file by admini- strative policy.		An initial report	-- Confirmed -- Ruled out -- Uncertain -- No follow-up	-- Demographic and geographic data on the abused child. -- Date, place and time of abuse incident. -- Date of report -- Nature of child's injuries. -- The abuse situation. -- Background data on suspected perpetrator. -- Reference to prior abuse. -- Identifying information on reporter. -- Locating information on parents or persons having custody of child.		
Florida	Yes	1971	Section 1. Sec- tion 828.041 (7) Establishment and Maintenance of Central Regis- try--"Central registries shall be established and maintained by the Department... Information con- tained in the registry may also be available for purposes of sig- nificant research relating to child abuse."	No local registries established	An initial report and a follow-up report. Many calls made directly to State Central Re- gistry via WATS line.*	-- Confirmed -- Ruled out -- Uncertain -- No follow-up	-- Demographic and geographic data on the abused child. -- Date of report. -- Nature of child's condition. -- Type(s) of abuse suspected. -- Locating information on re- porter. -- Locating information on parents or persons having custody of child. -- Physician's initial judg- ment of case status. -- Name and address of sus- pected abuser.	-- Summary of situation -- Worker's judgment of the situation -- Case status -- Case plan	

*This system is explored more extensively in this report.

Table 5-1--Continued

STATE	CENTRAL REGISTRY	YEAR ESTABLISHED	LEGISLATIVE BASE	LOCAL REGISTRIES	REPORTING PROCEDURES	CASES REPORTED TO CENTRAL REGISTRY	INFORMATION RECORDED	
							First Report	Follow-up
Georgia	Yes	1971	No provision in the law. State Department of Public Welfare maintains a registry by administrative policy.	No local registries established.	An initial report.	-- Confirmed -- Ruled out -- Uncertain -- No follow-up	-- Demographic and geographic data on the abused child. -- Date of abuse incident. -- Date of report. -- Type(s) of abuse suspected. -- Whether or not child seen by physician and/or hospitalized. -- Locating information on reporter -- Locating information on parent/substitute -- Composition of the family household. -- Case status. -- Nature of evidence determining case status. -- Physician's initial judgment of case status. -- Evidence of previous abuse. -- Description of disposition and activities. -- Background data on suspected perpetrator.	

Table 5-1--Continued

STATE	CENTRAL REGISTRY	YEAR ESTABLISHED	LEGISLATIVE BASE	LOCAL REGISTRIES	REPORTING PROCEDURE	CASES REPORTED TO CENTRAL REGISTRY	INFORMATION RECORDED		
							First Report	Follow-up	
Kentucky	Yes		No provision in the law. State Department of Public Welfare maintains a registry by administrative policy.	No local registries	An initial report and a follow-up report.	-- Confirmed -- Ruled out -- Uncertain -- No follow-up	-- Demographic and geographic data on the abused child. -- Date of abuse incident. -- Date of report. -- Nature of child's condition. -- Type(s) of abuse suspected. -- Evidence of previous injury. -- The abuse situation. -- Locating information on reporter. -- Locating information on parent/substitute. -- Information on identity of perpetrator.	-- Demographic and geo- graphic data on the abused child. -- Date of abuse inci- dent. -- Background data on family or household. -- Reference to prior abuse. -- Background data on suspected perpetrator. -- Worker's judgment con- cerning seriousness. -- of immediate situa- tion. -- Case status -- Nature of evidence de- termining case status.	

Table 5-1--Continued

STATE	CENTRAL REGISTRY	YEAR ESTABLISHED	LEGISLATIVE BASE	LOCAL REGISTRIES	REPORTING PROCEDURE	CASES REPORTED TO CENTRAL REGISTRY	INFORMATION RECORDED	
							First Report	Follow-up
Mississippi	Yes	1967	No provision in the law. State Department of Public Welfare maintains a registry by administrative policy.	Local Registries established throughout the State "where cases occur."	An initial report and a follow-up report. Reports made to Central Registry daily.	-- Confirmed -- Ruled out -- Uncertain -- No follow-up	-- Demographic and geographic data on the abused child. -- Nature of child's condition. -- Evidence of previous injury. -- Locating information on parent/substitute. -- Name and location of suspected perpetrator.	-- Demographic and geographic data on the abused child. -- Date of abuse incident. -- Date of report. -- Type(s) of abuse suspected. -- The abuse situation. -- Locating information on reporter -- Reference to prior abuse. -- Locating information on parent or substitute. -- Worker's judgment concerning seriousness of immediate situation. -- Case status. -- Nature of evidence determining case status. -- Background data on suspected perpetrator.

Table 5-1--Continued

STATE	CENTRAL REGISTRY	YEAR ESTABLISHED	LEGISLATIVE BASE	LOCAL REGISTRIES	REPORTING PROCEDURE	CASES REPORTED TO CENTRAL REGISTRY	First Report	Follow-up
North Carolina	Yes	1967	110-122. Cen- tral Registry... The State De- partment of So- cial Services shall maintain a central re- gistry of abuse and neglect cases reported under this Article in order to com- pile data for appropriate study of the extent of abuse and neglect with- in the State and to iden- tify repeated abuses of the same child or of other chil- dren in the same family."	Local regi- stries in more than half of the State.	Data furnished by county direc- tors of social services. A report is filed on every sus- pected abuse or neglect case with- in thirty (30) days. County de- partments of social services file only one report with the State Central Registry.	-- Confirmed -- Ruled out -- Uncertain -- No follow-up	-- Demographic and geographic data on abused child. -- Date of abuse incident -- Date of report. -- Nature of child's condition. -- Type(s) of abuse suspected. -- Child's handicaps prior to abuse. -- Evidence of previous injury or disability. -- Reference to prior abuse. -- The abuse situation. -- Identification of referral source. -- Locating information on parents/substitutes. -- Composition of the family or household. -- Background data on the family or household. -- Socioeconomic data on the family or household. -- Background data on suspected perpetrator. -- Worker's judgment concerning the seriousness of the imme- diate situation. -- Case status. -- Nature of evidence determin- ing case status. -- Legal action, if any, taken. -- Service action taken by De- partment of Social Services.	

Table 5-1--Continued

STATE	CENTRAL REGISTRY	YEAR ESTABLISHED	LEGISLATIVE BASE	LOCAL REGISTRIES	REPORTING PROCEDURE	CASES REPORTED TO CENTRAL REGISTRY	INFORMATION RECORDED	
							First Report	Follow-up
South Carolina	Yes	1967	Act No. 1068, Section 5. Upon re- ceipt of a report...the county depart- ment of pub- lic welfare shall main- tain a cen- tral regis- try of all such cases..."	Central re- gistries located at county le- vel.	An initial and follow- up reports.	-- Confirmed -- Ruled out -- Uncertain -- No follow-up	-- Demographic and geographic data on abused child. -- Date of abuse incident. -- Date of report. -- Nature of child's condition. -- Type(s) of abuse suspected. -- Evidence of previous injury. -- The abuse situation. -- Locating information on re- porter. -- Locating information on parents/substitutes. -- Case status. -- Nature of evidence de- termining case status. -- Physician's initial judg- ment of case status.	-- Nature of child's condition. -- Composition of the family or household. -- Background data on the family or house- hold. -- Socioeconomic data on the family or household. -- Background data on the suspected per- petrator. -- Worker's judgment con- cerning the serious- ness of the immediate situation. -- Physician's judgment.

Table 5-1--Continued

STATE	CENTRAL REGISTRY	YEAR ESTABLISHED	LEGISLATIVE BASE	LOCAL REGISTRIES	REPORTING PROCEDURES	CASES REPORTED TO CENTRAL REGISTRY	INFORMATION RECORDED*	
							First Report	Follow-up
Tennessee	Yes	1973--No provision in law prior to 1973. The Department of Public Welfare maintained a central registry by administrative policy.	Senate Bill No. 160, Section 1, 1207. "The Department of Public Welfare shall maintain a state central registry...Each county office of the department shall maintain a county central registry...The department shall adopt such rules as may be necessary to carry out this section. Such rules shall provide for... (3) scientific or governmental research on child abuse..."	Local registries to be established in each county office of the Department of Public Welfare.	An Initial report for both suspected and confirmed cases. A separate reporting form for each.	-- Confirmed -- Ruled out -- Uncertain -- No follow-up	-- Demographic and geographic data on the abused child -- Date, time and place of abuse incident -- Date of report -- Nature of child's condition. -- Type(s) of abuse suspected. -- The abuse situation. -- Locating information on reporter. -- Whether or not child seen by a physician. -- Locating information on parent/substitute. -- Worker's judgment concerning seriousness of the immediate situation. -- Name, age, and address of suspected perpetrator. -- Reference to prior abuse. -- Legal action or social planning undertaken. -- Plan and recommendations of Public Welfare Department.	

Chapter 6

CHILD PROTECTIVE SERVICE PROGRAMS: INTERRELATIONSHIPS

The success of a child protective service program depends, in large measure, upon established relationships between the public welfare agency and other community constituents. Basic to the operation of child protective service programs is a well coordinated and cooperative relationship with medical and other health constituents, with the court, and with the general community. This chapter deals with these relationships in Region IV.

Public Welfare Agency and Medical Constituents

Basic to a well coordinated and cooperative relationship between the public welfare agency and physicians and other medical constituents is a well defined intake referral system. This feature is especially essential to a successful child protective service program in view of the fact that physicians are mandated reporters in every state in the Region.*

Seven states indicated that a working relationship had been established with physicians and hospital personnel. However, the extent of cooperation differs among states as well as between public-employed physicians and those in private practice within each state. Three of the seven states indicated a well defined and cooperative intake referral relationship; two states indicated an inadequate process and less than desirable cooperation; two states did not evaluate the relationship.

*In one state, physicians report to person designated by the court; the state did not indicate an intake referral relationship with physicians.

There was almost unanimous consensus among the states in their evaluation of their differential relationship with physicians. Public-employed physicians, including those related to university hospitals, were generally seen as more cooperative in terms of reporting suspected abuse and neglect and in completing required forms.

In one state, there was no real differences indicated for the relationship based on the public-private employment status of physicians. The relationship between the public welfare agency and physicians and other medical personnel was considered poor and uncooperative. The following are some examples of a lack of cooperation between the public welfare agency and physicians and/or hospital personnel:

"Physical examination indicated child had been battered. Doctor never completed report and relatives denied mistreatment." Condition--Serious.

"Baby's condition [belt marks and extreme undernourishment] never officially reported as child abuse." Condition--critical

"Child admitted to hospital and doctors suspected child abuse. The child died later that day and neither the hospital nor doctor cooperated in investigating this case and following up on completing required forms." Condition--fatal.

Just as essential to the total child protective service program as a well coordinated and cooperative intake-referral relationship between the public welfare agency and physicians/hospital personnel, is a strong relationship in which the social and medical constituents engage in a continuous consultative relationship. This is especially crucial given the nature, the diverse causes, the seriousness, and the scope of the problem of child abuse and neglect. Yet, only four states in Region IV indicated a joint consultative relationship existing between public welfare and medical and health personnel. One state indicated that such a relationship exists in some of the state's metropolitan areas.

Important to the public welfare agency's disposition on a given case; and consequently the decisions of the court, if such action is implied, is the professional judgment of the attending physician. Such professional judgment is especially critical in cases of physical abuse. There is, then, an absolute necessity for a relationship in which provisions are made for follow-up reports from physicians and subsequent feed-back from the department of public welfare. This is an invaluable component of the relationship. Yet, only one state in Region IV indicated this feature as being characteristic of the relationship between the social agency and physicians and other medical and hospital personnel.

Public Welfare Agency and the Courts

The relationship between the public welfare agency and the courts varies between the states. In some states, the juvenile court is actively involved from the point of reporting while in others, the court becomes actively involved only when the agency invokes its powers to: (1) implement casework plans, e.g., require parent to seek professional services, and/or to (2) remove the child from the home when the parents will not consent.

A review of the chapter dealing with implementing the laws will indicate the states in which the court is involved from the point of reporting. This section will be limited to a discussion of some problems and areas for improving the public welfare agency-court relationship.

All of the states in Region IV indicate the following activities in relation to the juvenile court: (1) filing petitions, (2) serving as witnesses, (3) assisting witnesses in getting to court, and (4) making recommendations and specifying alternatives. One state investigates at the request of the courts and does not serve as witnesses in court proceedings.

One of the problem areas in the agency-court relationship stems from a lack of legal resources. In one state the following was indicated: "Because of limited legal assistance, caseworkers assume primary responsibility for preparing and presenting cases in court." Along the same line one state indicated that "staff does total work up of case;" in another, "staff prepares court summaries."

In view of the apparent lack of enough lawyers to meet the growing demand, there appears to be no ready solution to the above problem beyond the measures now being employed by the states. This problem and the apparent solution, however, imply that either through formal education or in-service training caseworkers must now be prepared in the intricacies of legal representation.*

Another problem area in the agency-court relationship emanates from a lack of well defined criteria for defining abuse. This often leads to a conflict between the agency's disposition of a case status and that of the court's. Two such examples are cited below:

After supper father continually threw rope around boy's neck and pulled child to him--child frightened began crying. Father called three year old son to him; child refused. Father hit child causing him to fall hitting his head on a chair. The first son, continuing to cry, was hit by the father in the face with his fist. This resulted in the child falling to the floor hitting his head and ear. Father in court for assault on a minor, three months earlier--suspended sentence.

Agency's disposition--confirmed abuse.
Court's disposition--abuse ruled out.

Nine month old child taken to hospital with head, eye, and leg injuries. X-rays indicated no broken bones. Grandmother said she heard child's father beating child. Parents told different

*Georgia, has implemented such training for child protective service workers.

story regarding origin of injuries.

Agency's disposition--confirmed abuse.
Court's disposition--abuse ruled out.

Consequence--within two weeks, child DOA at hospital.

Another problem in the agency-court relationship involves conflict between agency's and court's disposition of some cases, i.e., subsequent to the investigation, the agency presents the findings and recommendations to the court; the court often disregards the recommendations. I cannot document the degree to which this problem occurs in Region IV; however, one state indicated this was "a major problem." Personnel in another state indicated that this problem has had serious consequences for the department of public welfare. Personnel in one state indicated that they are "hard put to know what to do about the situation. While some judges go against agency's recommendations; some judges go along with almost anything. One is just as bad as the other."

In many cases involving conflict between agency's and court's disposition the issue is that of placement. One such case follows:

An eleven month old male child found to have suspicious bruises by hospital physician. Child withdrew from human contact and cried when held. Also diagnosed as "failure to thrive." A sister, three years older, was developing normally.

Agency's disposition and recommendation--confirmed abuse and placement.
Court's disposition--abuse ruled out and return child to parents' custody.

Consequence--child later died under unusual circumstances.

Presently, this gap in agency-court relationship stimulates questions rather than ready solutions. What criteria do judges have to employ in determining the status of a child abuse case? What programs need to be

developed to ensure more compatibility between agency and court judgment? Are juvenile court judges adequately prepared for the job? Do we know enough about characteristics of abusers to return children to their custody? What policy guidelines need to be developed and/or clarified to assist judges in the decision of placement for abused children?

Public Welfare Agency and the Community

The success of child protective service programs depends upon the positive sanctioning of the total community in carrying out the responsibility of identifying and protecting children. How knowledgeable are people about the abuse/neglect problem? Is the most commonly held community definition the same as that of the reporting law? What are the prevailing attitudes of the community toward the public welfare agency and its interventive authority? What attitudes are held toward the rights of parents and the rights of children? These are but a few of the crucial questions the public welfare agency needs to be aware of and to address itself in community relations.

There are necessarily basic elements to a viable relationship between the public welfare agency and the community. We offered the following list of services, with provisions for the inclusion of others, for the responding states to assess the elements involved in agency-community relationship.

<u>Service</u>	<u>Number States</u>
Casework services	8
Family counseling	7
Interpreting function of child protective services	8
Participating in community planning bodies	3
Interpreting state legislation	7
Interpreting agency's activities and progress	8
Social action	2

In conjunction with the normal casework services, all the states in Region IV engage in the important activities--interpreting function of child protective services and interpreting agency's activities and progress. What would be both interesting and invaluable would be an assessment of how these activities are carried out at the county levels. Only three states in the Region reported participation in community planning bodies and two states reported that the public welfare department became actively involved in community social action. In terms of the latter activity, there are arguments for and against the involvement of public welfare agencies in community social action. It is not the intent herein to make suggestions or comments for either position. However, in relation to the former activity--participation in community planning bodies--it would seem that this would be a necessary involvement to the success of the child protective service program. This would be one avenue through which the agency could recognize the attitudes of major community groups as well as to help influence and shape the community's awareness and response to the child protective service program. Seven states are involved in family counseling services and in interpreting state legislation.

Chapter 7

THE MODEL OF CHILD ABUSE REPORTING LAWS

This chapter has a two-fold purpose: (1) to summarize and compare the elements of reporting statutes in Region IV and (2) to present considerations for a model reporting law pointing out, where applicable, the limitations as we view them in Principles.

We have drawn upon our interviews with states' personnel on the weaknesses and strengths of their reporting statutes and upon the literature to establish model considerations. In addition, since this survey included only the eight Southeastern states in Region IV we have relied heavily upon a recent report from the American Humane Association*--a survey of all the states--for support and direction in several areas.

Defining and Restraining Elements of the Reporting Statutes

1. Purpose Clause

Summary and Comparison:

. . . To provide for the protection of children. . . causing the protective services of the State to be brought to bear in an effort to protect the health and welfare of these children and to prevent further abuses. (Principles)

Five states in Region IV included a purpose clause in their statutes. Two of these states provide for both the identification and the protection of children. Three states include, as a part of the purpose, the preservation of family life, wherever possible. Only one state provided for the

*Vincent De Francis. Child Abuse Legislation in the 1970's. (Denver, Colorado: The American Humane Association, Children's Division, 1970), pp. 127-134.

identification and protection of children who may be at risk of abuse/neglect.

Legislative intent and purpose--The General Assembly recognizes the growing problem of child abuse and neglect and that children do not always receive appropriate care and protection from their parents or other caretakers acting in loco parentis. The primary purpose of requiring reports of child abuse and neglect as provided by this Article is to identify any children suspected to be neglected or abused and to assure that protective services will be made available to such children and their families as quickly as possible to the end that such children will be protected, that further abuse or neglect will be prevented, and to preserve the family life of the parties involved where possible by enhancing parental capacity for good child care. (North Carolina)

Model considerations: In contrast to the suggested language of the model, the above statement (1) provides for the identification as well as the protection of children; (2) provides for possible primary prevention by making provisions for the identification of children suspected to be neglected or abused, i.e., not restricted to ". . . children who have had physical injury inflicted upon them. . ." as in the phrasing of Principles;^{*} (3) extends the involvement of the State's protective service unit(s) beyond that of providing services necessary for the protection of children to the offering of services to the children's families toward the end of reducing the risk of further abuse/neglect; and (4) recognizes the need for the preservation of family life, wherever possible, by enhancing parental capacity for good child care, as a goal.

2. Reportable Age limits

Summary and comparison: It is recommended in Principles that the upper age limit to be covered by states' child abuse reporting laws be the maximum age of juvenile court jurisdiction. Two states in Region IV set the age limit at under sixteen, two under seventeen, and four under eighteen. In none of

^{*}Emphasis added.

these states does the reportable age limit coincide with that of the juvenile court jurisdiction in dependency and neglect cases.

Model Considerations: In order to be able to invoke the powers of the court on behalf of an abused child in circumstances of acute risk or hazard, it is recommended that states raise the reportable age limit to the maximum age of juvenile court jurisdiction in their respective states.

3. Nature and Cause of Abuse

Summary and comparison: According to the model, abuse is defined as serious physical injury or injuries inflicted other than by accidental means. Two states in Region IV restrict abuse to physical injury,* while six states have broadened their definition to include general health and welfare factors. The statements of cause range from the general. . . other than accidental means. . . to more explicit ones ". . . caused by physical abuse, child brutality, child abuse, or neglect. . ." (Alabama)

Model Considerations: There are undoubtedly many forms of abuse-- physical, resulting from acts of omission as well as from acts of commission; emotional; sexual; and verbal. We do not know all of consequences of persistent neglect as we do not know the psychological effects on a child who is subjected to emotional and/or verbal abuse even if there are no physical injuries. It may very well be that the effects of non-physical abuse are more detrimental to the child's normal development than those of physical abuse. The intent herein, however, is not to argue the point that one form of abuse is or is not more detrimental to the child. That would be an exercise in futility. What we wish to emphasize is that perhaps child

* While defining abuse in terms of physical injury, one state does provide for the protection of the neglected child in its reporting law.

abuse reporting laws would mean more protection for children if all forms of child abuse are considered.

4. Provisions and Conditions of Immunity

Summary and Comparison: As suggested in Principles, all of the states in Region IV included an immunity clause in their child abuse statutes. With the exception of Tennessee (explicating immunity with respect to reporting only), the states guarantee immunity from civil and criminal liability with respect to reporting and judicial proceeding resulting from such report.

Seven states included a conditional phrase in the immunity clause. Some examples of conditional phrases follow:

- . . . in good faith (Principles).
- . . . resulting therefrom prima facie shall be presumed to be acting in good faith (Florida).

Model Considerations: An immunity clause is included for the protection of reporters from legal repercussions which could emanate from their action. Beyond this, however, it may be necessary to include a conditional phrase in the clause for the purpose of reducing the incidence of reports which are not made in the best interest of children's welfare but are intended to bring insult or harm to the parents, caretaker, or other reported person. As a consequence of reducing the incidence of such reports, more time and manpower should be available for the investigation of valid cases.

The phrasing of the conditional statement warrants careful consideration. In the phrase of Florida's law the presumption of good faith is open to rebuttal since presumption is contingent upon prima facie which means presumption or sufficient unless disproved.

5. Abrogation of Evidentiary Privileges

Summary and Comparison: Each of the states in Region IV, with exception of Georgia which establishes no waivers, specifies the relationships which are not subject to evidentiary privileges in matters concerning a child's injuries or the cause thereof. The relationships specified in Principles are the physician-patient and the husband-wife. Two states in the Region basically followed the model in setting forth evidence not privileged, while five states deviate in phraseology and intent.

The physician-patient privilege, husband-wife privilege, or any privilege except the attorney-client privilege . . . shall not pertain in any civil or criminal litigation in which a child's neglect, dependency, abuse or abandonment is in issue nor in any judicial proceedings resulting from a report. . . (Florida)

Model Considerations: There are two primary points to be considered in the question of privileged communication in an issue of child abuse: (1) the protection of the abused child, and (2) the rights of the abuser. It is felt that no evidence pertinent to determining the cause, the nature, and the necessary services to be rendered in a given abusive situation should be excluded. On the other hand, should the need arise, the suspected abuser must be guaranteed his constitutional right to counsel with all the privileges thereto. Therefore, it is recommended that the reporting law provides for no grounds for exclusion except that of the attorney-client.

6. Penalty for Abusing

Summary and Comparison: The model establishes no penalty for abusing. Four states in Region IV included a penalty clause in their statutes, with abuse being explicitly defined as a felony in one state.

Model Considerations: The major question here, it seems, is how shall abusing be defined? As a criminal act? As a psychological illness? As an inappropriate response to life's stresses and frustrations? It is possible that all of the above, as well as others, are appropriate definitions, i.e., there may be various forms of abuse with different causes and consequently different solutions. Thus, it would seem that an unqualified penalty clause should not be included in the reporting laws. However, in lieu of a penalty clause, the states' criminal statutes should be brought to bear in instances which have been so defined by evidence.

Implementing Reports Under the Law

1. Mandated Reporters

Summary and Comparison: According to the suggested language in Principles only persons in the medical profession are mandated to report. Only one state in Region IV followed the model in limiting designated reporters to members of the medical and health professions. Five states mandate physicians in conjunction with other professions as the target groups for reporting. One state indicates simply that any person is required to report, while another designates any professional person and any person. The logic behind this distinction will be presented in the discussion on conditions initiating reporting.

Model Considerations: There are strong and valid arguments for extending the mandate in reporting laws to other professional groups as well as physicians and possibly any person. Caseworkers, for example, are often faced with neglected and abused children among their active caseloads, who would otherwise go unnoticed, unreported, and possibly untreated. The same is probably true for teachers and other school personnel. Many cases,

however, do not come to the attention of professionals. Family members, neighbors, and/or concerned citizens may be aware of such incidents which warrant social investigation. Thus, we recommend extending the target group to include any person. This provision would probably increase reported cases which are not of an abuse nature. On the other hand, this prescription would provide for the inclusion of more valid cases of abuse. Broadening detection in this manner would seem preferable despite the risks.

2. Conditions Initiating Reporting

Summary and Comparison: The phrasing in the model ". . . reasonable cause to suspect. . ." and that of Alabama's law ". . . appears to be suffering. . ." stipulate a minimum of knowledge as a basis for reporting. Florida's and Georgia's laws follow in degree of restriction before reporting becomes mandatory: the reporter must have reason to believe or cause to believe, respectively. South Carolina employs essentially the same phrasing, qualified by reasonable cause. According to North Carolina's statutes, the professional person must have reasonable cause and any other person reporting must have knowledge. In Tennessee's law, the reporter must have knowledge or have been approached to render aid.

Model Considerations: Since one goal of protective services is primary prevention as well as the prevention of subsequent abuse after the fact, we recommend that states follow the suggestion in the model in stipulating a minimum of knowledge to initiate reports. We do not feel that the non-professional person reporting should be inhibited by the need to have complete knowledge before taking action felt to be necessary.

3. Recipients of Child Abuse Reports

Summary and Comparison: Three states in the Region designate the

department of public welfare as the single agency to receive child abuse reports. In this prescription, these states deviated from Principles which suggests that reports be made to appropriate police authority. In one state the law indicates an appropriate police authority if there is no child welfare agency. Two states give the reporter a choice between the department of public welfare, the sheriff's office, or the police department. In one state, reports are made to a person designated by the juvenile court or family court judge and to the department of public welfare. And in one state, reports are to be made to the juvenile court judge or the department of public welfare or to the sheriff or the chief law enforcement official.

Model Considerations: We take the position that perhaps the most practical channel would be to mandate a single agency to receive reports. Where there are several recipients of reports, with one agency usually having investigative powers, the investigation process would conceivably be slowed down considerably. Additionally, it would seem that reporters would have a better sense of direction if there are not too many recipients of reports. The single agency we recommend is the department of public welfare for their expertise in social investigations and in rendering protective services.

4. Type Report

Summary and Comparison: All of the states in the Region followed the model in making reporting mandatory, essentially employing the same language "... shall report or cause reports to be made. . ." Only three of the states followed the suggestion in Principles in making the report accusatory in nature.

Model Considerations: We recommend that reporting be mandatory and that the report be non-accusatory in nature.

5. How reports are Made

Summary and Comparison: Six of the states in Region IV followed the suggestion of the model in requiring that a written report follows the oral. In one state, the report can be made by telephone or otherwise. One state indicates that reports may be oral or by telephone or written.

Model Considerations: In the states' statutes the process of reporting has not been placed in its proper perspective in relation to who is mandated to report. A written report (Principles) as a requirement for physicians is a logical prescription. On the other hand, where the mandate to report is applicable to any person, the requirement places an unwarranted burden on the reporter.

The major purpose behind initiating a report is to set in motion the machinery of the protective service unit in behalf of the child. The responsibility for the social investigation lies primarily with the mandated agency and not with the reporter. Beyond this, however, the social investigation should include any medical findings and professional opinions, where applicable, of the reporter. Medical findings and opinions are crucial to the determination of case status, and as such, they need to be maintained on record. With the above points in mind, it is our position that the law should: (1) outline a clear and uniform reporting procedure which takes under consideration the responsibility of the reporter; (2) specify that non-professionals be required to report orally only; and (3) require professionals, especially physicians, to make a written report which will serve as part of the written report of the case.

6. Legislative Directions

Summary and Comparison: There are no legislative directions in the model.

Seven states in Region IV have included explicit directions, while one state has implied directions. Six of the seven states incorporating explicit directions invested investigative powers in the public welfare agency. One of these six states also empowers the sheriff's office or chief county law enforcement officer to investigate. In another state, the preliminary inquiry which is made by the youth court and at the court's discretion, determines whether further action is required. During the pendency of such inquiry, the Judge may request the county department of public welfare or any successor agency or any suitable public employee to make a social investigation.

Model Considerations The degree to which the purpose of the reporting law is realized depends, in large measure, upon the actions that are taken subsequent to a report. And likewise, the degree to which appropriate actions are taken depends among other factors, upon the prescriptions in the law which give explicit directions to the total process--from the receipt of a report through case disposition. It is our position that there should be no grounds for ambiguity and/or the need for the assumption of responsibility by any agency.

Beyond the prescriptions relative to directions, the law should clearly define the degree of authority to be invested in the investigating agency toward the end of protecting abused children. In sum, the various courses of action should be clarified.

Additionally, perhaps the statutes should make explicit provisions for the coordinative and collaborative effort of the various community service agencies when such is required by the investigative agency. Beyond the

social and rehabilitative orientation of the department of public welfare, many cases, for example, require the immediate services of the police department.

7. Penalty for Failure to Report

Summary and Comparison: "Anyone knowingly and willfully violating the provision of this Act shall be guilty of a misdemeanor." This is the penalty clause set forth in Principles. Five states in the Region included a penalty for failure to report in their laws, with penalties ranging from not less than ten nor more than one hundred dollars to not more than five hundred dollars, or both imprisonment and fine.

Model Considerations: The purpose of including the penalty clause in the law is to provide a device for the enforcement of that law. However, given the problems inherent in defining what constitutes abuse and determining the accidental-nonaccidental status of an incident, as well as establishing the existence of knowledge and willful negligence to report, gaining a conviction for the failure to report would be a difficult task. On the other hand, the existence of the clause, making conviction possible, may serve to stimulate reporting.

8. Religious Provisions in the Reporting Laws

Summary and Comparison: Beyond the major defining elements in the child abuse statutes, two states in Region IV include spiritual healing as a basis for exclusion from reporting. The inclusion of such an element was not recommended in Principles.

Model Considerations: There can be little doubt that this kind of

provision in the statutes precludes protection to certain children. On the other hand, if the law does not include the provision giving parent or other responsible adult the right to refuse medical treatment on religious grounds, the powers of the court can be invoked on behalf of the child.

Concluding Remarks

None of the states in Region IV approximates the original model (Principles) in all of its elements, and some of the states deviate substantially from the model on specific parts. While some of the deviations may have a dampening effect on the efficacy of the reporting statutes, e.g., the inclusion of the penalty and the religious healing clauses; some of the deviations from the model undoubtedly resulted in more effective laws, e.g., broadening the definition of abuse, extending the target reporting groups, designating the department of public welfare as the recipient of reports, and including legislative directions. Similarly, some elements that were modeled after Principles may be goal defeating, e.g., the requirement of an oral and a written report.

More importantly, none of the child abuse statutes in Region IV can be defined as a "model" law based on all of the considerations we have proposed. And we are not herein asserting that the model considerations are the final answers to effective child abuse laws and reporting systems. Needless to say, guides will be modified as a result of trial and error efforts and research. We can conclude, however, that from both logical and practical standpoints more consideration and thought need to be given to the elements relevant to the process of implementing reports.

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